



**Mayor's Office of Criminal Justice
New York City Council
Committees on Juvenile Justice and the Justice System
April 18, 2018**

Good afternoon, Chairs King and Lancman and members of the Committees on Juvenile Justice and the Justice System. 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 promote safety and fairness and reduce unnecessary incarceration.

The topic of today's hearing—the City's preparedness to Raise the Age—must 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 and made this the safest big City in the country. 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 22%, 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 48% (from 239 to 125), and the number of children in secure juvenile detention has dropped approximately 64% (from 127 to 46), 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.

New York City has long been a supporter of treating 16 and 17 year olds more appropriately within a juvenile justice system, and applauded the State for its passage of RTA in April of 2017. Since then, the City has been working tirelessly to prepare for its implementation, including the removal of all adolescents from Rikers Island by October 1st, 2018, on a timeline shorter than any other jurisdiction in New York State.

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. The Mayor's Office of Criminal Justice is leading a

planning process with the participation of the relevant city agencies, the courts, District Attorneys, Public Defenders and non-profit providers. We are planning for the significant increase of these young people into the family court system, the development of adolescent offender parts, a full continuum of diversion opportunities and community-based programs, and the identification and preparation of juvenile justice facilities to house this expanded population.

Working Groups

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 nine city agencies responsible for implementation. We are also 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.

Court Processes

Chaired by Judge Edwina Mendelson, who is also testifying today, the Court Processes Working Group has established a set of shared core values to inform the City's implementation of Raise the Age. This group has spearheaded a number of critical analyses and established protocols that will anchor implementation citywide.

For example, the group has examined the expected flow of cases in both Family Court and Youth Parts following the law change. When Raise the Age is fully implemented, all juveniles under 18 years old arrested for a misdemeanor will be treated as Juvenile Delinquents and processed in the Family Court. As a result, the most profound resource implications of Raise the Age will fall upon the Family Court, where the number of cases processed is projected to triple.

Additionally, many felony cases will be eligible for transfer to Family Court following arraignment in the Youth Part of the Supreme Court. The working group determined that decisions regarding transfer from the Youth Part to the Family Court should be made expeditiously. Although the statute contemplates a period of 30 days to resolve issues pertaining to transfer, wherever possible, we will aim to litigate contested transfer arguments within 6 days if the child is detained, and 14 days if the child is released.

The group has recommended that where practicable, children whose cases originate in the Youth Part should be represented by the same defense agency throughout the duration of their case, including following effectuation of a transfer to Family Court. We are in discussions with OCA about how to reflect that principle through our respective contracts.

Importantly, Raise the Age requires that young people are processed with sight and sound separation from adults being processed, including throughout the process of booking and awaiting appearance in court. Compliance with this requirement will require different accommodations in each county, depending on existing court facilities. Borough-level teams are currently working to confirm appropriate facility and practice changes required to comply with these sight/sound regulations.

On or before June 30, we will release citywide protocols to guide practice changes under Raise the Age and each county will produce a local implementation plan to underpin citywide training efforts.

Data Analytics and Risk Assessment

Following extensive analyses, the Data Analytics and Risk Assessment working group recommends that the existing Family Court Risk Assessment Instrument continue to be used for 16- and 17-year-olds following Raise the Age. Using information maintained by the Criminal Justice Agency to estimate the risk profiles of older teens, we expect the instrument to accurately predict the likelihood of older teens to 1) fail to appear as required in court, or 2) be rearrested during the pendency of their case.

The group has also made recommendations for expanded data collection, to begin October 1 when Raise the Age takes effect, which may be used to enhance the predictive accuracy of the risk assessment instrument as it is revised in the future.

The working group's recommendations are aligned with the state's position on assessing risk for juveniles under Raise the Age: the New York State Office of Children and Family Services does not plan to adjust the statewide Risk Assessment Instrument in the first year of Raise the Age, and agrees that gathering additional data on 16-year-olds during the first year following implementation will be helpful in developing a more predictive instrument for future use.

Programming and Diversion Working Group

The Programming and Diversion Working Group is chaired by the Administration for Children's Services and Department of Probation, both of whom are here today to offer additional information. Based on empirical assessments of risk, alternative-to-detention (ATD) programs make it possible for young people with pending court cases to receive supervision in the community in lieu of detention. The current Family Court continuum of alternatives to detention was introduced in 2006. The focus of this working group has been to ensure that this continuum has the capacity and age-appropriate resources to effectively supervise mid- and high-risk older teens in the community while their case is pending, and that there are sufficient and appropriate dispositional alternatives in Family Court and in the Youth Parts following Raise the Age.

Facilities

The City has also been focused on the development of age appropriate facilities to house the expanded population of young people in detention following Raise the Age, with leadership from ACS, the Department of Correction, and project management support via the Mayor's Office of Operations. As we testified to the Council in December, New York City has made clear the assistance that we require from the State to ensure successful implementation of Raise the Age. Unfortunately, we are deeply concerned that the State has not been willing to provide this support, thus imperiling the City's ability to meet the obligations of Raise the Age in a manner that is safe and appropriate for young people in detention. The State has hindered the City's ability to effectively implement Raise the Age by requiring overly restrictive co-mingling restrictions that amount to a policy of segregation for certain kids, delaying the issuance of regulations, and failing to provide the City the use of the virtually empty state facility Ella McQueen.

First, it is simply unconscionable that the State would mandate that young people be moved off Rikers Island on an accelerated timeline, but deny the City the one existing juvenile detention facility that is currently operating virtually empty and with sufficient bed space to accommodate the City's impending needs.

The Ella McQueen OCFS Reception Center does not currently serve young people from New York City, and only serves a very small number of young people far away from their families and communities statewide at any given time, despite its capacity to house at least 40 individuals. It is also the only facility identified out of more than 70 sites reviewed by New York City that is both appropriate to house juveniles and available for use by October 2018—unlike other sites not currently used for a comparable purpose and that are unavailable because of zoning restrictions.

Since the summer of 2017, the City has repeatedly requested the use of this facility, through written and verbal requests. The State has denied the City a site that is not necessary for the State's own use but would make a measurable difference in New York City's ability to house all the young people in detention following Raise the Age.

Given this disappointing reality, the City is proceeding full steam ahead with our plans to renovate the two existing ACS juvenile facilities, Crossroads and Horizon, to maximize their operational capacity in anticipation of these two facilities being the only available for New York City's use in implementing Raise the Age. The current renovations underway will enhance programmatic, recreational, and educational space and ensure needed health and safety improvements are made to the facilities.

At this juncture, we believe the City can still meet the ambitious deadline for moving juveniles off of Rikers Island, but meeting that deadline and the law's objectives will require that the co-mingling restrictions within housing, education, recreation and programming be determined by the City's classification system, rather than their court status alone. Current regulations mandate an effective policy of segregation, in which both kids that are on Rikers Island on October 1st 2018 and any incoming 17 year old until October 2019, regardless of charge, must be separated from all other adolescents within housing, education, programming, and education. We believe that this is in direct conflict with the principle of Raise the Age – that these young people are juveniles; and that while classification systems are critical to address individual needs and security concerns, a blanket segregation policy of young people based solely on the date that Raise the Age court processes take effect is unjustifiable and wrong.

The City's classification systems are currently in development for finalization by the Raise the Age implementation deadline, and we continue to maintain that this tool will be a more appropriate system for classification, particularly between adolescent offenders, Rikers kids, and the 17 year olds who are considered adults by the courts for one year. To be clear, flexibility means that we will co-mingle youth based on a targeted assessment of individualized needs and risks and prioritize safety and the ability to deliver effective programming, taking into considerations age and other security factors. But saying that a 16 year old in Rikers Island on September 30th cannot be in the same classroom as a 16 year old girl arrested for the same charge a week later is unjustifiable.

Adolescent Population Reduction

Finally, the City is doing everything in our power to continue to safely reduce the number of adolescents in custody by rolling out an array of new strategies:

As stated earlier, in the last four years, the number of 16- and 17-year-olds in city custody has fallen by nearly 50%. Now, as the City works to move 16- and 17-year-olds off of Rikers Island and into the more developmentally-appropriate juvenile justice system, we are doubling down on our commitment to keep

as many young people as safely possible out of detention and in high quality programming that addresses some of the underlying issues in their lives.

This commitment is backed by a new annual investment of \$3 million per year over the next several years to fund strategies including:

- Implementing an alternative-to-jail program that provides treatment and therapy to young people and their families, helping the family to support young people in building productive futures;
- Implementing an evidence-driven jail diversion program that features intensive mentorship, connection to supportive services and employment for young people; and
- Expanding a program for detained young people, helping them to secure release more quickly by making bail, being released to a program, or resolving their case.

Together, these strategies could reduce the number of 16- and 17-year-olds in city custody by an additional 20% over the next five years.

Staffing Plan

The foundational principle guiding the City's implementation of Raise the Age is that we ensure our criminal justice system is age-appropriate and responsive to the needs of the youth who enter the criminal justice system.

The Raise the Age legislation is clear that the newly created Specialized Secure Detention (SSD) facilities must be jointly administered by Department of Correction (DOC) and Administration for Children's Services (ACS). While the legislation does not clearly define the role of each agency within an SSD, the City has been working toward ACS as the primary operator, recognizing that a juvenile services agency is the most appropriate lead agency for a juvenile facility. The City is also equally focused on ensuring that the transition to new facilities can occur safely and with an appropriate level of trained facility staff. With those goals in mind, we also have some challenges to address, including the ambitious timeline for Raise the Age implementation which, unique to New York City, demands the immediate removal of all youth in adult jails.

The first 24 months of implementation will require phased staffing support from DOC while ACS builds internal capacity to safely manage a significantly larger population of older juveniles than they currently serve. ACS is creating a new civil service title to increase the pay for employees to improve recruitment and retention, and will implement an aggressive plan to hire 170 new employees by September 2018 and 50 new employees every other month thereafter until June 2020. As new classes of ACS recruits are hired and trained, DOC staff will transition out from their role in the facilities. During this transitional period, DOC staff selected to work in the juvenile facilities will be chosen for their experience and interest in working with adolescents. There will be a particular focus on the individuals who have demonstrated the greatest leadership in and commitment to the many reforms that are underway currently at the adolescent unit on Rikers.

ACS and DOC have been working diligently to develop one operational set of standards and practices to ensure that the law and spirit of Raise the Age is implemented effectively, while adhering to the regulations outlined by OCFS and SCOC. The City is very clear on the core value of Raise the Age—that

juveniles should be treated as juveniles—and every part of the planning process has been guided by this principle.

Budget

As we have shared in the past, there is currently \$300 million in capital funding allocated to ACS for the facility needs of Raise the Age, and \$104 million in work is well underway at Crossroads and Horizon. City agencies including ACS, Probation, Law, DOC and NYPD have been working closely with OMB to determine the appropriate level of funding to ensure that New York City meets its obligations to successfully implement Raise the Age.

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. Yet we acknowledge that successful implementation of this important reform requires a great deal of effort and coordination, between City agencies, the Courts, prosecutors, defense attorneys, community and neighborhood providers, as well as collaboration 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 now turn to my colleague Deputy Commissioner Felipe Franco to provide further detail on implementation by ACS and then I would be happy to answer any questions.



**The New York City Council,
Committee on Juvenile Justice
Committee on the Justice System
April 18, 2018**

“Oversight – NYC’s Preparedness to Raise the Age”

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

Good afternoon Chair King, Chair Lancman, and members of the Committees on Juvenile Justice and the Justice System. I am Felipe Franco, Deputy Commissioner of the Division of Youth and Family Justice (DYFJ) within the Administration for Children's Services (ACS). Raise the Age implementation is a multi-system, cross agency effort, and I thank you for the opportunity to speak with you today about the many ways in which ACS and our City and State partners are working together to prepare for Raise the Age implementation.

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. Raise the Age is an opportunity for us to strengthen our existing system and continue to improve our practice, support our staff and providers, and fortify safety across the entire continuum. We have been working diligently to further adapt our services and programming within our community based alternative, detention, and placement programs to meet the needs of an older youth population, and we look forward to working with our partners to expand our quality programming and services to 16 and 17 year olds. When possible, we will support youth and families through our network of community-based programs, such as alternatives to detention and placement, to keep youth accountable. We also plan to expand the use of evidence-based models and treatments within our detention and placement facilities that meet the developmental needs of older adolescents. Raise the Age is an opportunity to better serve all youth safely in the least restrictive settings, and it is our intention to do just that.

DYFJ Overview

The Division of Youth and Family Justice oversees services and programs for youth at every stage of the juvenile justice process. Our continuum includes community-based preventive services for youth who are at risk of delinquency, as well as their families. In addition, we provide detention

services to youth who are arrested and awaiting court resolution. Since 2012 with the enactment of Close to Home, we have been providing rehabilitative residential services for all youth placed with New York City as adjudicated juvenile delinquents, as well as aftercare services upon their return to the community.

Community-Based Alternatives

We are proud to say that fewer young people are being arrested and fewer young people are entering our juvenile justice system than ever before. Overall admissions to juvenile detention have decreased significantly year over year, dropping 32% from FY 2014 to FY 2017. We think this is attributable to smart policing, lower juvenile arrests across the City, and the intensive preventive services that ACS, the Department of Probation and our partners provide to help prevent young people from ever entering the system.

We know that the best way to intervene in the lives of young people is to treat the whole family. ACS' Family Assessment Program is available to families of youth up to 18 age to help youth avoid delinquency and involvement in the juvenile justice system by providing therapeutic services that address difficult teenage behaviors. ACS also runs the Juvenile Justice Initiative (JJI), which is the largest alternative to placement program in the City. JJI serves youth who have been adjudicated in Family Court and provides intensive services to these youth to keep them in their communities and with their families. JJI helps parents develop skills to support their children, enforce limits, and steer them towards positive peers and activities.

With Raise the Age, we have embraced the opportunity to develop alternatives to detention and placement that are age appropriate and gender responsive to meet the needs of all youth in the juvenile justice system. As part of a citywide Programming and Diversion Work Group, ACS has

identified new practices and enhanced services that will better meet the unique needs of older youth. Research overwhelmingly shows that young people do better when they are able to remain at home with their families and with connections to their community. We are planning to expand our continuum of evidence based programs to include interventions that promote permanency for justice-involved youth without family resources. In a few months, we will be announcing our selection decisions for the Mentoring and Advocacy Program, a new community based program designed to support youth by providing them with mentors and advocates with a focus on school engagement, education and workforce assistance. And, although they make up a small percentage of our population, ACS has been working with the Vera Institute of Justice, partner agencies, national experts and advocates on a Girls Task Force to reduce girls' involvement in detention and placement.

Detention

ACS provides secure and non-secure detention services for youth who have been arrested and are waiting for judges to hear their case in court. DYFJ currently operates two secure detention facilities—Crossroads in Brooklyn and Horizon in the Bronx—and oversees eight non-secure detention group homes across the City, operated by not-for-profit provider agencies. Secure detention has the most restrictive security features and is typically reserved for youth who pose the highest risk or have been accused of committing serious offenses.

The vast majority—as high as 90% of young people in the juvenile system, regardless of gender—have experienced some sort of trauma. To address this trauma, and to help youth develop the coping skills they need to safely manage their behavior, we have expanded psychological and psychiatric services in Detention in partnership with Bellevue Hospital.

Safety in our facilities is a top priority, and we have worked hard to create a system of care within our secure juvenile detention system that is grounded in best practice and designed to promote a safe, secure environment for youth and staff. Primary to safety in youth institutions is having a sufficient and skilled workforce able to respond to youth needs and create a predictable and safe environment. Our current staff does a great job of meeting youths' needs and guiding them to learn new behaviors, while maintaining structured and safe facilities. The work that our staff does on a daily basis contributes to the dramatic drops in detention admissions and juvenile crime that we continue to see across the City, and I would like to acknowledge them for the significant impact they have on the lives of young people and their families.

After finally receiving the State's draft Raise the Age regulations on staff education and experience requirements in December 2017, we at ACS embarked on the development of a new civil service title that will represent the professionalism and dedication of our staff. We continue to work with our City and labor partners to finalize an attractive title that will enable the City to recruit and retain the hundreds of staff we will need to meet the mandates of Raise the Age.

In the meantime, ACS has been working with local and national experts from the Missouri Youth Services Institute, Safe Crisis Management and NYU Bellevue to develop a system of care grounded in strategies that use a team approach so staff consistently work together with the same group of youth to reinforce positive behaviors and safety; employ a wide array of crisis prevention and de-escalation techniques to manage and redirect youth behavior; and teach both youth and staff trauma responsive skills to help youth regulate emotion and behavior.

The NYC Model

DYFJ utilizes the NYC Model within our secure detention system. Adapted from the nationally recognized Missouri Youth Services Institute (MYSI) model, the NYC Model is a therapeutic approach for working with youth in the juvenile justice system. Facilitated small

group interactions and the promotion of healthy, productive relationships are at the core of this group process model. All of our incoming direct care staff receives a week-long training on this model as part of their pre-service training, and all current staff in both of our secure detention facilities have been extensively trained in this approach. In addition, a consultant is working in both facilities to support the team leaders and the staff to ensure fidelity to the model.

Safe Crisis Management

DYFJ has employed Safe Crisis Management (SCM) as our crisis intervention methodology since 2012. SCM is an evidence-based behavior management system that focuses on helping staff learn and understand youth development and behavior, as well as prevention and de-escalation strategies that can be used to safely influence a youth's behavior in lieu of or prior to the need for physical intervention. If physical intervention is warranted, SCM includes Emergency Safe Physical Interventions (ESPI's) which are appropriate for use with youth. Staff participate in four days of SCM training during their pre-service training and receive an annual two day SCM refresher, and quarterly, on-site training and consultation to improve staff practice. In addition, our training academy is providing on-site, monthly booster SCM workshops for staff in both facilities.

NYU/Bellevue:

Through our partnership with NYU/Bellevue all secure detention staff receive training in working effectively with traumatized youth and strategies for preventing or mitigating vicarious trauma. We are in now in the initial phase of implementing *Trauma Affect Regulation: Guide for Education & Treatment* (TARGET). TARGET is a comprehensive trauma intervention specifically designed for use in juvenile justice settings. This effort is designed to increase staff's sense of safety and provide front-line staff with proven skills for managing the behavior of youth with trauma-related issues as well as their own work-related stress reactions.

Close to Home

Close to Home is a juvenile justice reform that has allowed New York City youth who have been adjudicated juvenile delinquents to be placed in residential care with ACS near their home communities. Prior to this reform, NYC children were placed in large institution-like settings located upstate, hundreds of miles away from their families and home communities. Now, youth many of whom are 16 and older, can participate meaningfully in services and treatment while furthering their education with the NYC Department of Education in placement, allowing them to continue to accrue credits towards academic advancement.

Residential Placement

Involvement with Close to Home includes both a stay in residential placement and a term of supervised aftercare as youth transition from placement back to their homes and communities. ACS currently partners with seven non-profit agencies to deliver strengths-based placement programs in 24 non-secure placement residences (NSP) located in and near New York City. All seven providers have experience in serving juvenile justice populations, and each program offers structured residential care in a small, supervised, and home-like environment. Limited Secure Placement (LSP), which opened in December 2015, currently has programs operating at four sites: one in the Bronx, two in Dobbs Ferry, and one in Queens.

As I noted earlier in my testimony, admissions to detention have decreased enormously over the last several years, and we have also successfully lowered the census of Close to Home residential placements by 20% from FY 2014 to FY 2017. Given the low census in Close to Home, we are working with our Close to Home placement providers to right-size existing capacity to absorb the youth that will enter the system under Raise the Age beginning October 1st. We are using this planning process as an opportunity to think more creatively and expansively about programming for older youth with an emphasis on vocational training, apprenticeships, and

employment programs. Further, we have instituted a number of enhancements to the Close to Home initiative that focus on improving youth monitoring and accountability, increasing inter-agency partnerships and significantly enhancing oversight of staff and providers.

ACS has built a robust quality assurance capacity to monitor outcomes from Close to Home including on-going reviews and assessments of provider performance. Since 2015, DYFJ has tripled the number of site inspections and unannounced safety and security checks of our Close to Home providers to ensure that conditions of care are in line with ACS requirements and that providers are resolving identified issues in a timely manner.

Aftercare

Most of our young people return to their home communities on aftercare following their Close to Home residential placement. Families and youth receive intensive support and accountability from the assigned ACS worker and aftercare resources. Since Close to Home's initial launch, we have seen that the success of a young person's reintegration into the community rests largely on the strength of the aftercare supports they receive. With this in mind, we have initiated a set of enhancements to our aftercare program to improve outcomes for justice-involved youth and bolster public safety. Through these reforms, ACS will improve the transition from residential placement to aftercare, strengthen supervision to ensure that young people attend school and participate in other important programming, and follow up more aggressively in the rare instances where public safety issues arise.

Closing

As you have heard today, extensive planning is underway across the City to implement the initial requirements of Raise the Age by October 1, 2018, and I thank you for the opportunity to discuss some of ACS's work in this significant undertaking. DYFJ endeavors to maintain our

transparent relationship with the City Council and we will continue to seek your guidance and support as we move ahead with our implementation efforts. Thank you again for your time. My colleagues and I are happy to take any questions.



**OVERSIGHT – NYC PREPAREDNESS TO RAISE
THE AGE**

**COBA PRESIDENT ELIAS HUSAMUDEEN'S
TESTIMONY BEFORE A JOINT HEARING
BETWEEN THE COMMITTEE ON JUSTICE &
THE COMMITTEE ON JUVENILE JUSTICE**

NEW YORK CITY COUNCIL

April 18, 2018

Good afternoon Chairman Lancman, Chairman King, and the distinguished Council Members of your committees.

My name is Elias Husamudeen and I am the president of the Correction Officers' Benevolent Association, the second-largest law enforcement union in the City of New York. Our members, as you know, provide care, custody, and control of over 9,000 inmates daily and over 55,000 inmates in just last year alone.

I greatly appreciate the opportunity to testify about an issue that is of great importance to New York City Correction Officers.

The Correction Officers' Benevolent Association applauds the decision of the New York State Legislature to raise the age of criminal responsibility in New York State to 18 years of age.

This common-sense amendment places juveniles where they should be, in facilities specifically designed to meet their

developmental and educational needs and staffed by employees specifically trained to meet those needs.

However, my Union's members are being selected for out of title work. New York City Municipal Unions currently represent workers whose job titles would be violated by assigning Correction Officers to the vague functions of "safety" "escort" and "transportation."

Correction Officers serve as law enforcement officers providing care, custody and control for inmates in correctional facilities. Correction Officers' training and expectations are consistent with this intention.

This intention, moreover, is expressed by the City, itself, when it issued Notices of Examination emphasizing that the job of Correction Officer is to be performed "within New York City correctional facilities."

Correction Officers are not trained to be social workers or educators and the Raise the Age reform we hoped would cure a situation where our officers were being asked to work well outside their expertise with respect to juveniles has only made matters worse – something pointed out by many “stakeholders” who speak for the youth at issue.

On January 19, 2018, the DOC posted hundreds of flyers throughout the jails stating that “DOC staff will work in joint ACS/DOC facilities after Raise the Age begins.” This was wholly inappropriate, vague and highly misleading.

It is inappropriate in that it was issued without prior discussion with or notice to COBA.

It is vague in that it does not specify which “staff” (uniformed or non-uniformed) will be assigned to the joint ACS/DOC facilities.

It is misleading in that, assuming “staff” to include uniformed staff.

The Raise the Age statute, among other things, added a section 500-p to the Correction Law. 500-p mandates that starting April 1, 2018, no youth under the age of 18 may be held at Rikers “to the extent practicable” and that starting October 1, 2018 this prohibition becomes an absolute bar. Such youths are to be housed in a facility:

- (1) *Certified by* New York State Office of Children and Family Services and the New York State Commission of Correction as a “specialized juvenile detention facility;” and
- (2) *Operated by* NYC Administration for Children’s Services *in conjunction with* the DOC.

The “in conjunction with” requirement is not further elaborated upon in the statute.

As Ana Bermudez, the Commissioner of the Department of Probation, testified before this body on March 15th, this change to the law includes **specialized secure detention, are supervised by staff selected and trained to serve youth**. It also includes monitoring implementation of Raise the Age and meaningfully investing in reentry legal services for youth. Nowhere are Correction Officers mentioned.

Indeed, as pointed out by Commissioner Bermudez, “The Raise the Age legislation does not mandate the presence of New York City Department of Corrections staff, nor does any legislative history or directive suggest that this is a requirement.”

It is presumptuous to conclude that this requirement means a blurring of the now separate duties between Correction Officers and those existing bargaining units responsible for maintaining order in ACS facilities. In fact, the statute only requires joint operation. The statute does not micro-manage the assignment of employees to these facilities.

Thus, the current state of affairs demands recognition that some facilities are DOC facilities and some facilities are ACS facilities. Under NYC Admin. Code. §9-101, the commissioner of correction may designate an institution “for the safekeeping of persons *committed to the department of correction.*” The Raise the Age law specifically withholds adolescents from the department’s sole jurisdiction. Similarly, the City Charter, at Section 623 specifically withholds from DOC jurisdiction and the commissioner’s authority “such places for the detention of prisoners or persons charged with crime as are by law placed *under the charge of some other agency.*”

Neither Raise the Age, the administrative code nor any other provision of law mandate that a facility jointly operated by the DOC with another agency be deemed a facility of the DOC rather than that of an “other agency.” Thus, we are faced with a hybrid situation which does not present the foregone conclusion stated in the Department’s flyer pertaining to Raise the Age.

The flyer, moreover, runs afoul of numerous provisions of the New York State Civil Service Law. As noted above, the training and expertise of Correction Officers grows out of the understanding that it is correction facilities for which they will be responsible.

In altering the duties by changing “correctional facilities” to “joint ACS/DOC facilities,” the City retroactively destroys the adequacy of the notice of job duties provided in the exam and in essence creates a civil service version of “bait and switch.” It does so without proper and legal reclassification, and without

input by the many commissions and agencies who must review any “reclassification.”

Such a change of the rules in the middle of the proverbial game is inconsistent with the letter and spirit of these civil service and personnel rule provisions.

The selection of Correction Officers for this task is puzzling, moreover, in light of the Department’s recent experience.

Correction Officers have been vilified by the media and advocacy groups and subjected to a court appointed monitor primarily in response to our dealings with this population.

Politicians cannot accuse correction officers of using too much physical force against this population and then turn around and demand that correction officers be responsible for this same population.

If Commissioner Bermudez is reflecting the administration's point of view. "Removing these teenagers from Rikers Island, only to have them supervised by DOC Correction Officers in juvenile detention, undermines the spirit and the intent of Raise the Age."

Correction Officers are expected to be able to police adolescents in a non-correctional environment. Clearly, the City's message is inconsistent and hypocritical. The City cannot logically state that, on the one hand, Correction Officers pose a threat to adolescents while, on the other hand, state that Correction Officers are the best equipped and qualified to secure this population.

In closing, with or without the Department of Correction, the City of New York is seriously unprepared to meet the October 1st deadline to safely transfer all adolescents off of Rikers Island and into these juvenile detention centers and therefore, the city should push the date back for at least another

6 months. Pushing the date back is not only the responsible thing to do, it is the morally correct thing to do in order to ensure juvenile detainees, and the correction officers charged with escorting them, are as safe as possible.

I thank you again for providing the COBA this opportunity to present our position before your committees. With that, I am happy to answer any questions you may have.

New York City Council Raise the Age Hearing

April 18, 2018

TESTIMONY OF HON. EDWINA G. MENDELSON

Thank you for offering me the opportunity to address you today. I am Deputy Chief Administrative Judge for Justice Initiatives for New York State Courts.

The Office for Justice Initiatives was established in July 2017 to lead the New York State Unified Court System's justice-based initiatives, including the Access to Justice Program and other state court system programs involving child welfare and juvenile justice. My duties include implementation of the new law raising the age of criminal responsibility in N.Y.S. The mission of my office is to ensure meaningful access to justice for those passing through the doors of every New York State civil, criminal and family court - regardless of income, background or special need, in accordance with N.Y.S. Chief Judge Janet DiFiore's Excellence Initiative.

My judicial career began in 2003 when I was appointed to the Family Court bench. Thereafter, in 2008 and 2009, I served as Supervising Judge of Queens Family Court. From 2009 through 2015, I served as the Administrative Judge for all New York City Family Courts. Prior to becoming a Judge, I was a Family Court practitioner for many years, representing children and adults in all types of proceedings. I also hold a Ph. D. in Criminal Justice.

From January 2016 to January 2018, I presided over Manhattan's Youth Part. All Juvenile Offender cases and most of the Youthful Offender eligible cases - virtually all youths charged as adults with felonies, who were under the age of 19 at the time of the commission of the offense, as well as their adult co-defendants appeared before me. I continue to preside over Juvenile

Offender matters. My assignment to the Youth Part was a deliberate choice by court leaders to make certain that young people charged as adults under our current statutory scheme would appear before a judge experienced in juvenile justice matters, trained in adolescent development and committed to rehabilitative principles.

The United States Supreme Court has firmly established that the criminal justice system may not treat youth who commit crimes while under age 18 in the same manner as the system treats adults.

Science – as well as our own experiences and good common sense – tell us that children even of this age are still immature and highly subject to peer influence. They often lack sound judgment and engage in risky behavior without consideration of consequences, as their brain development is not yet complete. This age group, however, is also uniquely ripe for intervention and rehabilitation – options which are routinely practiced in the juvenile justice system in the Family Court. Young people who are prosecuted in the juvenile justice system have a lower rate of recidivism.

The legislation raising the age of criminal responsibility- or as we all know it, the Raise the Age legislation - will finally bring New York into the mainstream regarding youth justice. Prior to its passage, New York was one of only two states (North Carolina was the other) to have 16 as the age of majority for purposes of criminal responsibility.

The New York State judiciary has long supported efforts to raise the age of criminal responsibility. I had the privilege of providing testimony before this Council last year on January 19, 2017 in full support of efforts to raise the age of criminal responsibility in New York. At that time, the idea was but a twinkle in some of our eyes. I was gratified on April 10, 2017 when Governor Cuomo signed legislation officially raising the age of criminal responsibility to 18.

When I testified before you last year I was a trial court judge providing my perspective on how our court system should treat justice involved youth. Now I come before you as one of our court leaders responsible for spearheading the statewide implementation of the Raise the Age mandate. My colleague, the Honorable Michael V. Coccoma, Deputy Chief Administrative Judge for courts outside New York City, and I co-chair the court system's statewide internal Raise the Age Implementation Committee. Judge Coccoma and I have been invited to participate in the New York State Raise the Age Task Force established by the Raise the Age legislation and convened by Gov. Cuomo.

Although I have been deeply involved in New York State's plans for implementing this groundbreaking law, I will focus on New York City's efforts. In September 2017, the Mayor's Office of Criminal Justice established the New York City Raise the Age Implementation Task Force.

We have participated in dozens of planning sessions with various impacted stakeholders since the Task Force began its work. To most efficiently and effectively plan for implementation, the Task Force established four very busy interdisciplinary working groups, and a steering committee of Task Force chairs. The groups focus on court processes, programming and diversion, data analytics and risk assessment, and facilities. I chair the court processes workgroup, which is planning how New York City courts will operate from the point of arrest to ultimate case disposition.

Our efforts to implement the Raise the Age law are truly collaborative. The court processes workgroup includes representatives and leaders from the following entities:

- 1) All five District Attorney's offices;
- 2) The New York City Corporation Counsel (the Law Department), which is the presentment agency for Juvenile Delinquency matters in the Family Courts;
- 3) Members of the defense bar including the Family Court Attorney for the Child Programs, Criminal and Family Court Assigned Counsel Programs, adult institutional defender organizations; and
- 4) Various New York City government agencies including the Administration for Children's Services, the Department of Corrections, the Department of Education, the Department of Probation, and the New York Police Department.

Our core values as we seek to implement this groundbreaking law include:

- Fairness: Justice system outcomes should improve for 16 and 17 year olds after the law is implemented. There should not be an increase in detention and incarceration resulting from implementation of the Raise the Age legislation.
- Safety: for the children and youth who are accused, and for our communities.
- Continuity: Wherever possible and appropriate, we wish to ensure continuity of defense counsel, court of record and prosecutorial agency.
- Speed: The Raise the Age law has mechanisms for case movement from court to court. Our goal is to transfer cases from Criminal Courts to the Youth Parts, and appropriate cases from the Youth Parts to the Family Courts in a swift and timely manner.

We are gratified to work with such dedicated and hard-working court leaders and stakeholders as we create an entirely new adolescent justice system.

The law raising the age of criminal responsibility in New York law is complicated. The new Youth Parts to be established pursuant to the Raise the Age law will be unlike any others in New York State. Family Courts will have vastly expanded caseloads and resource needs. Criminal Court after-hours operations must expand to address new Adolescent Offender arraignments and the new populations of Juvenile Delinquency first- appearance- proceedings. Additionally, we are addressing a multitude of operational and facilities issues and formulating plans to ensure the efficient and safe transfer of custody of children from arrest to arraignment, and implementing a new case management system to ensure the efficient transfer of cases between the various impacted courts. We have also conducted comprehensive tours of courthouses throughout New York City to enable court leaders to select courtroom locations best suited to operate within the requirements of the new law, while also considering the concerns of affected stakeholders.

While we are laser focused on ensuring that our court system is in the best possible posture for this historic change in the law on October 1, 2018 and beyond, we have not lost sight of the principles underlying the law raising the age of criminal responsibility. Our ultimate objective is to provide sustainable positive outcomes for justice-involved children and youth, while simultaneously improving community safety. To attain decisional and operational excellence, our system processing and operations cannot remain status quo. We cannot operate in the comfort of our habits from times past when 16 and 17 year olds were treated as adults. From the very first point of justice system contact, through every step to final dispositional outcome, all entities involved must follow both the letter and spirit of the law.

Young people and our communities deserve a qualitatively improved process. Common sense, social science, and now our law dictates this. The New York judiciary is committed to ensuring that youths age 16 and 17 now receive a court process that considers rehabilitation as a means of both protecting local communities and redirecting the lives of court involved youth.

The remainder of my remarks summarize major aspects of the Raise the Age law, particularly as it relates to court operations. The new legislation, will be implemented in two phases: The first phase begins on October 1, 2018 when the age of criminal responsibility is raised for those who are age 16 at the time of the alleged offense. The second phase begins on October 1, 2019 when the age of responsibility is raised for 17 year olds.

At full implementation of the law, all cases of 16 and 17- year old “adolescent offenders” charged with felonies will begin in the Youth Part of the Supreme Court Criminal Term with specially trained Family Court Judges presiding. The judges serving in the Youth Parts will either be traditionally appointed or elected Family Court Judges, or they will be specially trained judges of other courts designated to serve as Family Court Judges. Youth Parts will operate Monday through Friday during the usual hours of court operations.

As the law requires, “accessible magistrates” will be available to preside over Adolescent and Juvenile Offender arraignments, and Juvenile Delinquency pre-petition hearings. In New York City, Accessible Magistrates will preside in our Criminal Courts during “off hours”: nights, weekends, and court holidays. The magistrates are to address first-appearance-proceedings and will adjourn cases to the Youth Part for the very next session the Youth Part is open. Accessible Magistrates must be judges authorized to handle criminal cases, and like the Family Court Judges serving in the Youth Parts, are to be specially trained in juvenile justice, adolescent development,

custody and care of youths and effective treatment methods for reducing unlawful conduct by youths.

For Adolescent Offender cases heard in the Youth Parts, and cases transferred to the Family Court from the Youth Parts, there is a legal presumption against confinement during the court process.

Voluntary case planning services are to be provided to both Juvenile Offenders and Adolescent Offenders under the new Raise the Age law.

For youth who are detained, the new law directs that Adolescent Offenders no longer be housed with adults and must instead be held in newly defined Office of Children and Family Services and State Commission on Correction certified “specialized secure juvenile detention facilities for older youth.” All 16 and 17- year old youth must be removed from Rikers Island no later than October 2018.

Youths whose cases are not transferred to Family Court will continue to face the same sentencing process as adults, except that the court must now consider age in imposing sentence. Under the Raise the Age law, Juvenile Offender cases (13 to 15 year olds charged with certain violent crimes) will proceed much as they had prior to the change in law. Juvenile Offender cases will be heard in Youth Parts with newly available voluntary probation risk and needs assessment opportunities and the existing reduced sentencing structure. Youthful Offender protection remains available for Juvenile and Adolescent Offenders whose cases remain in the Youth Part, as does the possibility for a permanent adult felony conviction.

Crime severity is the greatest factor in determining if a felony case continues in the Youth Part of the adult Criminal Court system or is “removed” and transferred to the Family Court Juvenile Delinquency system. While all felonies must begin in the Youth Part of Supreme Court, we expect that almost all of the non-violent felony cases and some of the violent felony cases will also be transferred to the Family Court.

There is no doubt that there will be a greatly expanded case volume in the Family Courts, where we expect the current Juvenile Delinquency case filings to, at a minimum, double. At full implementation, all misdemeanor cases for 16 and 17 year old youths, except those involving Vehicle and Traffic Law offenses, will be addressed in the Family Courts as Juvenile Delinquency cases.

The benefits of a Family Court process for younger justice involved youth include pre-filing probation adjustment diversion services and quite significantly, the absence of a public record. The law also expands parental notification provisions to 16 and 17 year olds.

Family Court proceedings for 16 and 17 year olds under the Raise the Age law will be the same as those that currently exist for younger Juvenile Delinquency respondents in terms of probation adjustment and diversion services availability, detention, pre-trial, fact-finding, dispositional and post-dispositional proceedings.

16 and 17 years olds charged with more serious designated felonies have older age placement possibilities. Those youth can be placed (sentenced) in Family Court proceedings with annual extensions until their 23rd birthday with their consent, and without their consent they can remain in placement until their 21st birthday.

In conclusion, the court system plans to be ready to implement the new law raising the age of criminal responsibility on October 1, 2018. We are grateful for the opportunity to plan collaboratively with the New York City Raise the Age Task Force, the Mayor's Office of Criminal Justice, New York City government agencies, non-profit stakeholder organizations and affected advocates. It has been an honor to Chair the Task Force's Court Processes workgroup. Together we hope to build a "best-in-class" youth justice system.

I am happy to answer any questions you may have, and I invite you all to come and observe proceedings in our soon-to-be created courts established pursuant to the Raise the Age law.

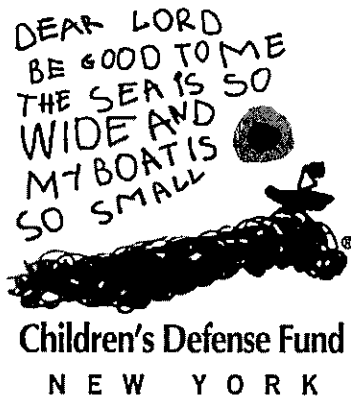
Respectfully submitted,

Hon. Edwina G. Mendelson
Deputy Chief Administrative Judge for Justice Initiatives

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

Oversight Hearing on NYC's Preparedness to Raise the Age

April 18, 2018



Beth Powers

Director, Youth Justice

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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 King and members of the City Council Committee on Juvenile Justice, and Chair Lancman and members of the City Council Committee on the Justice System for this opportunity to testify on the topic of New York City's preparedness to raise the age. 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 through appropriate planning and allocation of funding, and 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.

Implementation of raise the age is an opportunity to examine New York's juvenile justice system and ensure that front end community based solutions are prioritized and deep end confinement based settings are used as a last resort. Raise the age will impact all stages of justice system involvement including but not limited to community based alternatives, probation, courts, detention, placement and aftercare. All of these aspects will require appropriate funding to increase services, as well as to train staff.

ACS Expanded Role 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 currently applied to youth charged with juvenile delinquency who are 15 and under. As such, the role of the Administration for Children's Service (ACS) Department of Youth and Family Justice (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 the juvenile system. 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 ACS and the Department of Correction (DOC), adding another component to the expanded role of the juvenile system.

New Specialized Secure Detention for Older Adolescents

Raise the age legislation requires the creation of a new specialized secure detention (SSD) for older adolescents to serve as facilities where youth charged as AOs will be detained. The legislation dictates that these new facilities are to be operated by ACS in conjunction with DOC, however the delineation of requirements by each agency is not prescribed. 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 with adult correctional officers.

We are alarmed at the City's current plan to staff these facilities with DOC staff. On December 6, 2017, at the City Council Juvenile Justice Committee hearing, the Mayor's Office of Criminal Justice presented the City's plan for ACS and DOC to jointly operate SSD facilities. We understand that the City plans for this to be a temporary measure for the first 24 months of operation. However, we are concerned that staffing these youth facilities with DOC Officers will import an adult correctional culture that will not be easily, if at all, removed after 24 months. We appreciate that ACS will offer case management and programming responsibility for youth, however this measure will not negate use of DOC staff to provide security for youth.

We acknowledge that DOC has made strides to address the treatment of youth in their care. Notably, the City eliminated the use 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 currently offered to adolescents is available in the new settings, to avoid any unintentional loss of access to programming.

Despite this progress, DOC is not in the best position to respond to the needs of youth and should not be tasked with overseeing 16 and 17 year olds in the new youth facilities. In addition to DOC representing an adult-focused approach to corrections, they also have a well-documented history of mistreatment of youth. The most recent Independent Court Appointed Monitor Report for Nunez vs. City of New York from October 2017 reports serious concerns with DOC treatment of youth. They note "serious and

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>

problematic issues involving Staff use of force continue in an unabated fashion².” The monitor report additionally notes that “[t]he 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.” Such encounters involved leadership noting a “disturbing” number of captains who were involved “frequently” and “repeatedly” in concerning use of force incidents.

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)³ 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.”

It is critical that the City 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 reflect best practices for protecting 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. It is not appropriate for adult correctional staff to oversee youth in the new youth facility. In doing so, the City cannot expect different results than currently achieved. 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. Additionally, 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.

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 (such as those on juvenile delinquency or juvenile offender charges) are not negatively impacted as raise the age is implemented. The current population of youth in secure detention is at a historic low. ACS must take steps to ensure that this increase in population and decrease in free space due to the influx of youth charged as AOs, 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

² 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>

³ 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>

cases to adult correctional practices or DOC staff. This is particularly relevant given the limited amount of space at the City's disposal.

The City has put forth a plan that requires the use of current secure detention locations as well as Ella McQueen, a juvenile facility currently operated by the Office of Children and Family Services. While the Governor included a proposal to allow Ella McQueen to be closed in 30 days, as opposed to the current requirement of 1 year in his Executive Budget Proposal, this change was not included in the final budget. Given this seeming barrier to the City's current plan for removing youth from Rikers and implementing raise the age, we urge the City to make public the current plan for complying with this element of raise the age.

We appreciate the need for urgency in planning for the implementation of raise the age and we understand the enormous challenge of hiring and training sufficient staff to handle expanded capacity in youth facilities. However, we urge the Council to ensure that the statutory benefits intended by removing youth from Rikers is not lost by allowing DOC to staff and other adult correctional practices into the new youth detention facilities.

Community Based Alternatives

In New York's juvenile delinquency system, prior to seeing a judge in Family Court, youth meet first with the Department of Probation who have the opportunity to divert the case through the adjustment process. This process acts as an opportunity to divert the youth from entering the court system and possibly a restrictive setting such as detention or eventually placement. We are supportive of all opportunities to safely divert youth from the court system and encourage the City to continue to develop robust opportunities for diversion from the courts.

Not all youth who enter the Family Court system are detained outside of their home. We are supportive of alternative to detention programming that allows youth to remain home and receive supportive services during the pendency of their case. Some youth are placed in detention, either non-secure or secure. However, many youth stay in detention for only a short period of time, sometimes only one night or just a few days. While this period of time is short, research shows that even a short stay in detention can negatively impact a young person. Detention can increase recidivism, increasing the chances of youth going deeper in the justice system, and can negatively affect mental health outcomes⁴. Community-based alternatives offer a more cost effective solution with better outcomes for youth. We applaud New York City for the significant reductions in detention and encourage continued investment into alternatives and exploration into reasons for and solutions to short term stays that can be avoided.

The recently passed New York State Budget included cuts that will directly impact service provision to youth impacted by New York's juvenile justice system. While the final state budget did include \$100M for the entire state for raise the age related expenses, legislative language requiring financial hardship for raise the age expense reimbursement makes it highly unlikely that New York City will receive funding for this significant change in law. Additionally, Close to Home, the placement program for youth adjudicated delinquent and placed outside of the home by a Family Court judge, was reauthorized, despite the

⁴ Holman, B and Ziedenberg, J. The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities. Retrieved from: http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf

elimination of 100% of state financial support. We applaud the Council for the inclusion of funding to support Raise the Age and Close to Home in the Council's Response to the Mayor's Preliminary Budget. We encourage the City to ensure all aspects of the youth justice continuum are fully funded to ensure successful implementation of raise the age, and to continue prioritizing alternatives to placement and detention in this challenging fiscal environment.

LGBTQ Youth

Of particular concern in facilities jointly operated by ACS and DOC are the conditions for 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 policy⁵ with additional guidance⁶ and best practices for practitioners working with youth.

Emphasis is placed by ACS in its policies and practices 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 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."

⁵ 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

⁶ 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>

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 youth. 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"⁷. 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 misdemeanors⁸. 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, 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 as an increase in the volume of youth served. 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. Additionally, aftercare services will also need to be 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.

⁷ Kinkead, 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>*

⁸ 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>*

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 and 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.



Committee on Juvenile Justice and Committee on the Justice System

Hearing: Oversight - NYC's Preparedness to Raise the Age

April 18, 2018

Testimony of Lineage Project

Presented by Gabrielle Prisco, Esq., M.A.

Executive Director



My name is Gabrielle Prisco, and I am the Executive Director of Lineage Project. Thank you to the Committee on Juvenile Justice and Committee on the Justice System for the opportunity to testify.

Lineage Project brings mindfulness programs to incarcerated, homeless, and academically vulnerable youth to help them manage stress, build inner strength, and cultivate compassion. We also train youth-serving staff and organizations in the development of mindful, trauma-conscious cultures and practices. Founded in 1999, Lineage's first programs were meditation classes for detained youth in the former NYC Department of Juvenile Justice, and for adolescents on Rikers Island.

Lineage currently works throughout New York City, including in detention and incarceration centers, Alternative Learning Centers (ALCs) for youth in long-term suspension, public schools, and a family homeless shelter. Lineage also leads SONYC Horizon, a groundbreaking arts, leadership, and mindfulness after-school program for youth in secure detention at Horizon Juvenile Center in the Bronx.

Funded by New York City Department of Youth and Community Development (DYCD), SONYC Horizon provides 12+ hours of weekly programming to youth detained at Horizon. Each year, Lineage serves approximately 300 youth inside Horizon. Lineage works very closely with our partners at the Administration for Children's Services (ACS) on the program's day-to-day administration, and our Program Director has an office on-site at Horizon.

Lineage annually subcontracts with 10+ community-based organizations and individuals, including Better You Fitness (fitness training), Carnegie Hall (original songwriting), Community Connections for Youth (credible messenger mentoring where formerly justice-involved mentors work with youth), Cumpanis Cooking (cooking and life skills), Giant Thinking (mental and physical strength training), The Good Dog Foundation (dog therapy visits), Manhattan Theatre Club (playwriting and theatre). In addition, Lineage provides its own mindfulness classes, which assist young people in managing stress, developing inner strength, strengthening focus and self-regulation, and cultivating compassion. Through our partnership with a wide range of powerful community-based providers, SONYC Horizon offers justice-involved youth with myriad opportunities to express themselves, learn about their talents and interests, and connect in new and multi-dimensional ways with peers and facility staff.



LINEAGE PROJECT

Mindfulness Practices
For Vulnerable Youth

Lineage Project is extremely supportive of the city's efforts to move young people off of Rikers Island and into the youth justice system, and we offer ourselves as a resource and partner in these efforts.

Based on our experience working closely within the system, we respectfully make the following three recommendations:

- 1. Robust and meaningful developmentally-appropriate programming should be a central part of the city's planning process.**

We stand at the drawing board. Before us is the opportunity to develop a blueprint for a new youth justice system. Meaningful and developmentally-appropriate programming must be deeply embedded in that planning. The "program plan" for any youth-serving system must be as clear and detailed as the "housing plan," as it is just that essential.

Programming provides critical educational, social, and psychological benefits to youth in the justice system. At Horizon, we often see young people who struggle academically during the school day excel in programs. Program participation boosts these young people's confidence for learning, and they can then apply that confidence back to their academic classes. The type of programming we offer is characterized by having facilitators who serve as mentors, and by having content that is readily accessible to young people, even those who may struggle with traditional academics. As a result, this kind of programming is a vital tool for meeting young people where they are at, offering them concrete and embodied experiences of success, and helping them connect that success to other areas of their lives.

In addition, program participation can offer young people and staff opportunities to express and understand themselves and each other in multi-dimensional ways. A young person who may otherwise be defined by a problematic behavior can suddenly be seen by themselves and others as a gifted songwriter, a poet, or someone with a great tenderness toward plants. This multi-dimensionality can shift the ways young people see and express themselves. It also can lead to deeper and more meaningful (and less adversarial) connections between young people, and between young people and staff.



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In a Lineage mindfulness class at Horizon, one staff member told the youth residents: “You inspire me.” One young woman then pointed at the staff member and responded: “You inspire me, because you’re always nice to us, even though we’re difficult sometimes.” This was a remarkable departure from the blunting of emotional affect, defensiveness, self-protective posturing, and aggression, often exhibited between youth residents and facility staff. As another example, during the Cumpanis Cooking workshops, residents and staff frequently share their intimate connections to their kitchens at home, including sharing about family memories and special recipes. These kinds of exchanges can extend far beyond the classroom, creating a culture within the facility that is more positive, compassionate, respectful, safe, and productive.

Additionally, programming greatly reduces idle time, which is well established as a contributor to incidents for youth in detention and incarceration. Put quite simply, the more engaging and innovative programs that are happening at any given time, the less likely it is that incidents will occur. We have also observed that incidents arise when young people feel they are being unfairly denied programming that their peers can access, and that offering robust opportunities for programs to as many residents as possible each day in a way that feels fair to them can reduce incidents.

It is particularly important to note that, due to age and experiential and developmental differences, the programmatic needs for many young people who will enter the system as a result of the Raise the Age and Rikers Island reforms will be different from those of many of the youth in the current youth justice system. To be successful, programs will need to be skillfully tailored to the developmental, literacy, and social-emotional needs of the varied populations within the system.

In order to set the city’s young people and agencies up for success, program development and operations should be a key focus of Raise the Age implementation.

- 2. Directly impacted young people and family members, along with the community-based organizations that serve them, should be invited to the city’s planning table to help design programs to best serve our young people.**

To be successful, the city should engage directly impacted youth and family in the planning of Raise the Age efforts, and should specifically engage these stakeholders in planning for programs. Directly impacted young people and their families can share firsthand information



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about what does and does not work, offer creative and unique ideas for program design, and serve as important collaborators in problem-solving. If we want to create programs that will meaningfully reach young people and their families, we must engage them in their design and implementation. It is that simple and that crucial.

The city should also include the community-based organizations that serve these young people and families at the planning table. Over the past decade or so, the city and its community-based agencies have made remarkable strides in collaborating to serve justice-involved youth. New York City has a wealth of community-based agencies with deep expertise in the field. A number of these providers have deep roots in the communities most impacted by the justice system, and some employ and work closely with directly impacted youth, their families, and community members. The city's community-based providers have unique information about service and program creation, implementation, maintenance, and evaluation that must be part of planning from as early a stage as possible. In addition, these providers need to be as prepared as possible for the upcoming changes, as they will ultimately be working in the new system. Involving providers in the planning process sets them up for success serving the city and its young people.

Involving providers in the program planning process will also offer opportunities for the Administration for Children's Services (ACS), the Department of Correction (DOC), and program providers to build and strengthen relationships, identify and work toward shared goals, and plan for potential obstacles before the change in population occurs. For example, the SONYC Horizon program decreases idle time for residents, which is a factor used in assessing ACS's compliance with Program Based Standard (PBS) benchmarks. At the same time, in order to maximize SONYC Horizon programming and successfully decrease idle time, many operational factors under the purview of ACS must be accounted for, including staffing needs, shift schedules, restrictions on youth movement, restrictions on "mixing" youth with each other, and coordination with other facility activities. These challenges will only intensify when the facility reaches full capacity, and new populations of young people arrive. Working together in the program planning stage offers opportunities for intentional program design that are proactively responsive to the on-the-ground operational needs of the facility, the strengths and limitations of the facility staff as well as the provider agencies, and the shared goals of all stakeholders.

It is equally critical that there be time and space, before the young people arrive, to jointly consider potential operational challenges, and to plan around them. Failure to do so will likely leave the program providers and agencies scrambling to find solutions to challenges that may very well have been avoided with advanced and collaborative planning.



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Lineage Project is fortunate to already have a strong collaborative model in place with ACS and DYCD, and hope to only deepen our collaboration with these two agencies and to begin working with DOC and our fellow community-based agencies in the months ahead as we prepare to jointly serve our young people.

- 3. New York City should increase funding for programs for youth in the youth justice system, specifically: a) to DYCD for the enhancement of the SONYC Horizon and Crossroads contracts, and b) for the release of new Requests for Proposals (RFPs) for youth at all points in the justice system.**

Given the Raise the Age legislation and the mandate that the city move 16- and 17-year-olds off of Rikers Island, it is our understanding that by/on October 1, 2018, Horizon Juvenile Center will be at capacity (roughly 106 young people), which represents an approximate 523% change from an approximate very recent census of 17. It is our understanding that Crossroads Juvenile Center in Brooklyn (where a SONYC program is also in operation) will also experience a dramatic increase in population. In addition, as a result of the upcoming reforms, and as noted above, the city's two detention centers will serve a much wider range of populations with varied experiential and developmental needs, including young people charged with Adolescent Offenses, Juvenile Offenses, and Juvenile Delinquencies, and young people coming off of Rikers.

Despite these changes, to the best of our knowledge, the city has not increased the funding available for the SONYC programs at Horizon and Crossroads. It will be incredibly difficult for Lineage Project to continue to operate SONYC Horizon in a facility experiencing an approximate 523% population change without additional funds. While we can, by contract, continue to serve only a small fraction of the youth in the facility (e.g., serve only those who are charged with juvenile delinquencies and juvenile offenses), and leave the other youth (e.g., those who will enter the facility after October 1) without robust programs, we feel strongly that this would be a grave error for the young people and for the overall reform effort. Restricting programming to only certain groups of youth would undermine the very mission of Raise the Age. And, as noted in section one above, significant on-the-ground challenges and incidents can arise when programming is not available for all youth in a facility.

Also, to the best of our knowledge, there has not been an allocation of funds to support new or enhanced programs for youth at any other point in the youth justice system continuum. As



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detailed in section one above, programs are essential to the effective functioning of the youth justice system.

The City Council should play a leadership role in ensuring that there is funding for adequate and developmentally appropriate programs for young people at every system touch point, from preventive programs to aftercare. There are many strong and successful program providers who have the expertise to assist the city in designing and providing these services to our young people. Quite simply, these providers need funding in order to do so.

We specifically ask that the Council allocate additional funds as follows:

- a. to DYCD for the enhancement of the SONYC Horizon and Crossroads contracts;
- b. for the release of new Requests for Proposals (RFPs) for youth at all points in the justice system, from prevention to aftercare.

Thank you for your consideration of these recommendations. Lineage Project stands ready to assist the City Council, the relevant city agencies, and our fellow community-based agencies in the planning and implementation of effective programming for youth in the justice system. And we thank you for your efforts during this critical and transformational moment.

TESTIMONY

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

Oversight: NYC's Preparedness to Raise the Age

April 18, 2018

The Legal Aid Society
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Presented by: Dawne A. Mitchell

The Legal Aid Society welcomes the opportunity to testify before the Committees on Juvenile Justice and the Justice System regarding oversight of New York City's preparedness to raise the age. We thank Chairs King and Lancman for holding this important and timely hearing. Also, we would like to thank the Council for allocating \$200 million for Raise the Age implementation and \$31 million for Close to Home services in its response to the Mayor's Preliminary Budget for fiscal year 2019.

The Legal Aid Society is the nation's oldest and largest not-for-profit legal services organization. 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 represents 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 arrested and charged in Family Court with juvenile delinquency. The 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. The Legal Aid Society, along with a coalition of advocacy and other defender organizations continue to be actively engaged in the planning and implementation process of Raise the Age.

I. Raise the Age Matters

Raising the Age of criminal responsibility matters. Youth charged as adults face lifelong collateral consequences (even if they never re-offend) that can significantly 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 successful civic integration of those convicted as youth. While the Raise the Age law is not perfect, it does require--effective October 1, 2018--that 16 year olds arrested for misdemeanors and some felonies will be charged as juveniles in the Family Court rather than as adults in the Criminal Court, and it no longer allows 16 and 17 years olds to be held in adult jails and prisons.

Our testimony today highlights key aspects of concern in the preparation for Raise the Age. The Legal Aid Society supports Raising the Age, however, its implementation requires the coordination of many agencies. We are frankly concerned that many critical decisions remain to be made, jeopardizing an effective and timely implementation of this essential legislation. We urge the NYPD, ACS DYFJ, Department of Probation (“DOP”), Mayor’s Office of Criminal Justice Services (“MOCJ”), New York City Department of Correction (“DOC”), the NYS Office of Court Administration (OCA) and the NYS Office of Children and Family Services (“OCFS”) to engage in expedited, thorough and transparent planning, and to encourage the participation of all those impacted by this new law, including youth and their families, to ensure that Raise the Age is a success.

Raise the Age is an over-due reform, intended to provide 16 and 17 year olds with

policies, programs and facilities that are age-appropriate and rehabilitative. We recently testified before the Council about the many reforms which have occurred in recent years that have positively affected young people prosecuted in the Family and Criminal Court systems, including increased diversion and enhanced services in the community; in alternatives to incarceration, in incarcerative settings, and in re-entry services. As implementation nears, we expect that these reforms will continue and we ask City and State agencies to work together to improve policing, divert more youth from prosecution and incarceration, and improve the treatment and conditions for all youth, whether they are charged in Criminal or Family Court.

A. The Needs and Demographics of Justice-Involved Youth

Day in and day out, The Legal Aid Society zealously advocates for marginalized, disenfranchised and oppressed individuals and communities. Racial inequities permeate the justice system. For decades, Black and Hispanic youth in New York City have been unfairly and vastly overrepresented.¹ According to ACS's Detention Demographic Data, 94.8% of all New York City youth admitted to secure detention facilities in 2017 self-identified as Black or Hispanic (65.7% self-reported as Black and 29.1% identified as Hispanic); similarly, 90.2% of all New York City youth admitted to non-secure detention identified as Black and Hispanic (60.3% identified as Black and 29.9% as Hispanic).² Notably, 100% of youth placed by New York City Family Court judges in Close to Home limited secure placement in fiscal year 2017 were Black and Hispanic (52.4% identified as Black and 47.6% as Hispanic).³ The vast majority of youth admitted to secure detention, Crossroads and Horizon, come from: Brownsville,

¹ https://ocfs.ny.gov/main/bcm/DMR_Section%20Seven%20of%20Grant%20RFP_2015.pdf

² <https://www1.nyc.gov/assets/acs/pdf/data-analysis/2017/AnnualDemographicDataReportForDetentionFY2017.pdf>

³ <https://www1.nyc.gov/assets/acs/pdf/data-analysis/2017/AnnualDemographicDateForNSPAndLimitedSecurePlacementFY2017.pdf>

Bedford-Stuyvesant, East New York, Harlem, the South Bronx and Far Rockaway. These statistics and demographics are essentially the same for teenagers who are held on Rikers Island and prosecuted in the adult criminal courts. These communities face racial inequities and share significant problems of poverty, inadequate services to meet the high needs of its residents, low performing schools, higher than average prevalence of health and mental health issues and substandard housing stock due to structural racism.

Lesbian, gay, bisexual, transgender, non-binary, queer/questioning and intersex (LGBTNBQI+) and runaway and homeless youth in NYC are also disproportionately vulnerable to arrest and disproportionately represented in the court system. A national survey found that 40% of youth placed in girls facilities identified as LGBTNBQI+ and almost 14% of youth in boys facilities identified as LGBTNBQI+.⁴ Additionally, LGBTNBQI+ youth make up 40% of the runaway and homeless youth population.⁵ Simply by spending more time on the street and in public places, often lacking family support, these youth have more contact with police officers. They often lack government-issued identification that match their gender identity and their affirming names, which can make interaction with law enforcement more complicated.⁶ Many homeless youth find the need to engage in sex work to secure a place to sleep or to earn income, which makes them vulnerable to sex trafficking-related arrests. Transgender young adults are often targeted by NYPD police operations for loitering and other prostitution related offenses.⁷

⁴ Irvine, Angela, and Canfield, Aisha, 2017, "Reflections on New National Data on LGBQ/GNCT Youth In the Justice System," LGBTQ Policy Journal at the Harvard Kennedy School, Volume VII.

⁵ <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf>

⁶ Youth Justice Board, "A Report on Homeless Youth and the Justice System in New York City," June 2017, at <https://www.courtinnovation.org/publications/homeless-not-hopeless-report-homeless-youth-and-justice-system-new-york-city>

⁷ Id.

The mental health and educational needs of justice involved youth are far greater than those of youth in the general population. According to ACS's data in Fiscal Year 2017, 46% of youth in detention were referred for and received mental health services.⁸ Studies show that nearly seven in ten youth involved with the justice system are experiencing a mental illness, and at least one in four of these youth exhibit severe functional impairment.⁹ The national figures are consistent with local findings. Indeed, "approximately 85% of young people assessed in secure detention intake reported at least one traumatic event, including sexual and physical abuse, and domestic or intimate partner violence."¹⁰

Girls in detention and jail, in particular, suffer from complex, overlapping needs. Oftentimes, having suffered more intense and prolonged trauma than the boys, girls present with higher rates of mental illness. Standard physical intervention strategies employed in restrictive settings such as secure detention, including the use of physical restraints or isolation, frequently have the unintended effect of causing increased stress and re-traumatization, escalating self-destructive and self-harming behavior for girls.¹¹ Similarly, many commercially sexually exploited youth¹² report experiencing repeated physical and/or sexual abuse by family members, as well as their pimps and johns. These youth require immediate crisis intervention services and intensive, ongoing counseling with specially trained therapists.

⁸ <http://www.nyc.gov/html/ops/downloads/pdf/pmmr2014/acs.pdf>.

⁹ Mental Health Association in New York State, Inc., "Report on Juvenile Justice, Mental Health & Family Engagement", October 2013, at: https://www.mhanys.org/MH_update/wp-content/uploads/2013/11/MHANYS_Juvenile-Justice-Report-2013_Final.pdf.

¹⁰ <http://www1.nyc.gov/assets/opportunity/pdf/policybriefs/detention-brief.pdf>.

¹¹ *Improving Policy and Practice for Adolescent Girls with Co-Occurring Disorders in the Juvenile Justice System*, pp. 7-8. GAINS Center.

¹² A sexually exploited child is anyone under 18 who has been subject to sexual exploitation because he or she is the victim of the crime of sex trafficking; engages in any act of prostitution; is the victim of the crime of compelling prostitution; participates in sexual performance; or loiters for the purpose of engaging in a prostitution offense. See Social Services Law §447-a; Penal Law §§ 230.34, 230.00, 230.33 and §240.37; and Article 263 of the Penal Law.

II. New York City's Readiness for Raise the Age

Raising the age of criminal responsibility carries the potential for more youth to be treated with a rehabilitative, age-appropriate approach and promises to provide greater protections for both youth and communities at large.¹³ Once Raise the Age is fully implemented, the majority of 16 and 17 year olds arrested will be processed through the juvenile justice system rather than the adult criminal justice system. With the addition of 16 and 17 year olds entering the juvenile justice system, our utmost concern is that the City agencies, including the NYPD, MOCJ and the DOP receive enhanced training and resources to expand diversion efforts.

B. Policing

The NYPD could benefit from specialized trainings and resources to: (1) de-escalating and reducing the use of force in interactions with youth; (2) diverting youth from court-involvement; (3) decreasing Disproportionate Minority Contact; (4) increasing police officer understanding of adolescent behavior; and (5) improving relations, conceptions and attitudes between youth and police. The NYPD should also increase education about runaway and homeless youth and LGBTNBQI+ youth to enhance police accountability and communication with these communities, building upon changes to the NYPD patrol guide requiring officers to be more affirming in their interactions with the LGBTNBQI+ communities.

C. Diversion

Diversion programs are an important way to ensure that young people who can succeed without court intervention are given the opportunity to do so, since contact with the justice system can lead to a downward spiral.¹⁴ Recently, New York City has implemented a number of

¹³ 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.

¹⁴ <http://www.calendow.org/youth-arrest-detention-bad-justice-worse-health/>

diversion programs shortly after arrest or filing of a case in criminal court which should serve as models to be expanded throughout the City for adolescents. One such program called Project Reset, created in collaboration with the NYPD and the District Attorneys of Manhattan and Brooklyn, diverts teens and adults arrested for the first time for selected offenses. Police screen for eligibility at the point of arrest and if the client elects to participate, they are assigned to complete restorative programming provided by the Center for Court Innovation. Upon successful completion, the prosecutor declines prosecution and the participant does not have to go to court. Since 2015, the program for 16- and 17-year olds has helped more than 500 teens avoid criminal court and the collateral consequences of a criminal conviction and has a 99 percent completion rate.¹⁵ Project Reset could be utilized to divert 16 and 17 year olds from Family Court prosecution.

Another notable diversion program available prior to the filing of a case for those struggling with opioid and heroin addiction who are arrested for low-level drug offenses is the Heroin Overdose Prevention & Education (HOPE) program on Staten Island. Those eligible are given a desk appearance ticket and connected to a peer coach and treatment services. If the participant receives an assessment prior to their scheduled court date, they do not have to appear in court and if they meaningfully engage in treatment for a short period following the arrest, the DA's office declines to prosecute their case.¹⁶ Adequate funding of diversion programs is key to successful implementation of Raise the Age.

¹⁵ Center for court Innovation, "Project Reset," 2017, at <https://www.courtinnovation.org/node/20117/more-info>.

¹⁶ <http://nypdnews.com/2017/02/groundbreaking-heroin-overdose-prevention-education-hope-program-announced-on-staten-island/>; The Bronx just began a similar diversion program, Overdose Avoidance and Recovery (OAR), which is available after the filing of a case in criminal court, but prior to the entry of a plea to allow individuals to engage in treatment. Successful completion will result in the dismissal and sealing of the criminal case. https://www.nycourts.gov/press/PDFs/PR18_01.pdf

D. Alternatives to Incarceration

When efforts to divert a case are unavailable or fail and the youth is referred for prosecution, it is essential to have a comprehensive set of alternatives to detention (ATD) and alternatives to placement (ATP) services. The decision to detain a youth is one of great consequence and comes at high social and financial cost. National research demonstrates that, in general, detention does not deter crime. Studies show rather that detaining a child *increases* the likelihood that the child will re-offend in the future, even when controlling for offense and prior history.¹⁷ Furthermore, studies show that locking up at-risk youth with other at-risk youth increases negative behaviors.¹⁸ All of these harms have a negative impact both on youth and on our communities. Additionally, the financial justification for the use of ATDs and ATPs, in lieu of incarceration, is substantial.¹⁹ We strongly support the strengthening and expansion of ATDs and ATPs, as these programs benefit youth, save the City money and make the City safer. ACS and MOCJ should evaluate all of its ATD and ATP programs to ensure each is providing services that are affirming of LGBTNBQI+ youth. Transgender, non-binary and intersex youth should have a voice in which program they attend to ensure they are affirmed in their gender identity. Additionally, runaway and homeless youth should not be turned away from ATDs or detained by the Court because of a lack of family support.

E. Detention Issues

1. Secure and Specialized Secure Detention Facilities Policies and Procedures

¹⁷ Justice Policy Institute, “The Dangers of Detention,” at http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_ji.pdf.

¹⁸ The Justice Policy Report.

¹⁹ *Id.*, at p. 10-11 (documenting the high fiscal costs of detention for youth in comparison to ATDs and noting that in NYC one day in detention is 15 times more costly than a detention alternative).

JDs and JOs are housed in juvenile secure detention facilities under the care and control of ACS DYFJ. The new Raise the Age law requires the creation of Specialized Secure Detention Facilities (“SSDs”) to house 16 and 17 year olds who are prosecuted in adult court.²⁰ Specifically, in New York City, all 16 and 17 year olds must be moved from Rikers Island by October 1, 2018.²¹ The 16 and 17 year olds whose cases stem from arrests made prior to October 1, 2019 will not be considered “adolescent offenders,” and must not be held in adult facilities after October 1, 2018. Current OCFS regulations do not permit the 16 and 17 year olds who are moved from Rikers Island to be held in the same housing units as youth who are prosecuted after the effective dates of Raise the Age.

The law does not clearly delineate the role of the ACS DYFJ in the creation and administration of the new SSDs, but rather, mandates that the agency work in conjunction with the New York City DOC. Although the term “in conjunction” is not defined by statute, the City Administration’s current plan is that DOC will have custodial responsibility²² and ACS will have responsibility for the delivery of medical and case management services, as well as recreational programming within the SSDs. However, for the next two years, the City plans to give DOC primary responsibility for managing the custody of the youth in SSDs.²³ During this two year period, the City plans to develop ACS’ staffing capacity to take over supervision and security of the SSDs.²⁴ At that point, DOC will reportedly transition to play “an advisory role with the option

²⁰ AOs are 16 year olds charged with felonies and prosecuted in the Youth Part in Criminal Court effective October 1, 2018 and 17 year olds effective October 1, 2019.

²¹ N.Y. Corr. Law 500-p.

²² The Mayor’s Office of Criminal Justice and ACS announced at a City Council juvenile justice committee hearing on December 6, 2017 that DOC would have custodial responsibility for 16 and 17 year olds prosecuted in the adult courts and detained in the SSDs.

²³ Mayor’s Office of Criminal Justice Testimony before the City Council, Juvenile Justice Committee, December 6, 2017.

²⁴ *Id.*

to retain some operational responsibilities,” the parameters and the specifics of which are unclear.²⁵ We believe that the City’s plan to move youth from Rikers Island to another DOC-operated facility will undermine the goals of Raise the Age, which was passed to ensure that youth are treated in a developmentally appropriate manner within a rehabilitative setting.

2. Both ACS and DOC have histories of struggle in the care of adolescents

While ACS DYFJ policies and procedures are significantly more consistent with the intent of the Raise the Age legislation than DOC policies, both agencies have struggled with providing appropriate care and security for the youth in their care. Youth have faced dangerous conditions and poor outcomes in DOC custody at Rikers Island due to an entrenched culture of violence. DOC has recently greatly improved services and conditions for adolescents held on Rikers Island, in large part to comply with the settlement with The Legal Aid Society and U.S. Department of Justice in *Nunez v. City of New York*.²⁶ The City has increased youth programming, significantly increase staffing for youth, and has provided enhanced training for staff working with youth on Rikers. The City has placed trained counselors in the housing units with adolescents, has improved mental health care and has invested in mentor and gang intervention programming. Other programming now available to youth in DOC custody reportedly includes extensive, practical vocational programs, such as Cosmetology, Building Trades, Barista Training, Food Preparation, OSHA Construction and maintenance, Flagging and Scaffolding, CPR and Simulated Driving Programs.²⁷ The City has invested considerable money to implement these programs for youth on Rikers. As the City takes steps to move youth off

²⁵ *Id.*

²⁶ *Nunez v. City of New York*, 11 Civ. 5845 (LTS) (S.D.N.Y.).

²⁷ *Nunez v. City of New York*, The Fourth Report of the *Nunez* Independent Monitor, dated October 10, 2017, at 216.

Rikers to the SSDs, it should earmark funding for these services and ensure that they follow the youth to the SSDs.

Even with these services, much work remains. The Fourth Report of the *Nunez* Independent Monitor (overseeing conditions at Rikers Island), dated October 10, 2017, (“Monitor Report”) documents that despite reforms, public attention and resources, the culture of violence persists in the treatment of adolescents in the custody of the DOC. Key findings from the Monitor Report related to the DOC’s treatment of adolescents at Rikers Island include:

- For 16 and 17 year olds, there has been almost zero progress in reducing the rate of fights among youth since the *Nunez* Consent Judgment began in November 2015: an average of 26.5 fights per 100 16 and 17 year olds for the first six months of 2017 versus 27.1 per 100 in November 2015. (Monitor Report at 205-206)
- A “disturbing” number of DOC 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). Additionally, it was found that the Department as a whole continues to struggle to impose meaningful and appropriate accountability and discipline for any staff who engage in misconduct. (*Id.* at 12)
- 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. (*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).

It is important to note that ACS DYFJ has also struggled with the safety and care of young people. In 2012, the N.Y.S. Office of Children and Families (“OCFS”) placed ACS DYFJ on a Corrective Action Plan which lasted several years to reduce its high rate of restraints and room confinement in its two secure detention facilities. It is well recognized that “physical restraints come with inherent risk due to the hazardous circumstances in which restraints are applied.”²⁸ Such risks to youth during restraints, include exposure to trauma and the risk of serious physical injury or death.²⁹ Exposure to trauma for a population with a documented history of trauma is particularly harmful. Staff must be able to de-escalate situations and the use of restraints must be an intervention of last resort to prevent imminent harm.³⁰ We are pleased that the ACS DYFJ restraint policy echoes this sentiment, however, ACS must ensure that staff comply with this policy. We have seen an overall reduction in the number of restraints and the use of room confinement, however, we do receive reports that some DYFJ staff continue to use physical restraints in an abusive manner in an effort to intimidate or punish youth.

One significant effort ACS DYFJ has made is the provision of age-appropriate, trauma informed care to JOs and JDs 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 JOs and JDs in secure detention and to JDs in non-secure detention. Immediately prior to entering this contract, Bellevue Hospital in conjunction

²⁸ “Behavior and Management: Coordinated Standards for Children’s Systems of Care,” Final Report to the Governor September 2007, developed by the Committee on Restraint and Crisis Intervention Techniques p. 11.

²⁹ Physical restraints should be “an intervention of last resort” due to the high risk outcomes associated with it, including trauma, injury and even death. Nunno, M.A., Holden, M.J., & Tollar, A., Learning from Tragedy: A Survey of Child and Adolescent fatalities. *Child Abuse & Neglect*, 30:1333-1342 (2006). Researchers note the stress of being placed in a restraint along with the effects of medication can place children at risk. Mohr W.K. & Mohr, B.D., Mechanisms of Injury and Death Proximal to Restraint Use. *Archives Psychiatric Nursing*, 44(6):285-295 (2000).

³⁰ “Behavior and Management: Coordinated Standards for Children’s Systems of Care” at 19.

with ACS provided trauma-informed training to the staff and JOs and JDs in the secure detention centers. Additionally, the clinical services in detention provided by START³¹ appear to have improved as has the communication between the START and Bellevue clinicians.

ACS DYFJ must increase programming to meet the needs of the anticipated additional youth. A promising program made possible by City Council funding is for CURE violence agencies to work with the older youth in secure detention. As the Council is aware, the CURE Violence approach is evidence-based and utilizes “credible messengers” to reach youth with an anti-violence message.³² Youth are encouraged to remain engaged with the CURE Violence partners upon discharge. CURE Violence programming will be important to 16 and 17 year olds detained under the new law.

ACS DYFJ’s Physical Restraint policy appropriately requires staff to de-escalate situations to avoid restraints and provides that restraints must be an intervention of last resort to prevent imminent harm.³³ ACS DYFJ policy permits the use of room confinement as a short term intervention 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 ineffective.”³⁴ The use of room confinement is closely regulated and requires approval of the facility director or his or her designee in the first instance. Neither restraints nor room confinement can be used as punitive measures in ACS DYFJ.

³¹ START provides mental health counseling in conjunction with the psychiatric care provided by the Bellevue psychiatrists.

³² http://www.nyc.gov/html/ceo/html/initiatives/yimi_violence.shtml.

³³ ACS DYFJ Safe Intervention Policy for Secure and Non Secure Detention, Policy And Procedure 2014/10, dated November 7, 2014.

³⁴ ACS DYFJ Room Confinement Policy for Secure Detention, Policy and Procedure 2017/07, dated August 30, 2017.

Application of ACS DYFJ policies and procedures is particularly important for transgender and intersex youth, as under ACS policy these youth have a right to assert whether they feel safer being placed based on gender identity rather than sex assigned at birth. DOC does not provide the same right to those detained at Rikers.

We are opposed to DOC staffing the SSDs. We believe that the City's plan to move youth from Rikers Island to another DOC-operated facility would result in continued harm to youth and would fail to accomplish the very goal of Raise the Age. Raise the Age was passed to ensure that youth are treated in a developmentally appropriate manner within a rehabilitative setting. Particularly in light of the continuing level of use of force by many correctional officers, the admonition of the *Nunez* monitors should be strongly heeded: "It is crucial to have a precise, detailed internal agreement on the core principles guiding the appropriate use of force...Uniformed staff need to be better engaged in the process of reform to ensure that the expected culture change permeates the facilities".³⁵

The ACS DYFJ policies and procedures are much more consistent with both the spirit and the intent of the Raise the Age legislation, and offer the best chance to ensure robust programming, education and safety for the youth detained in SSDs. We do not believe that it is necessary to export DOC officers to the SSDs in order to do so. In fact, we believe that having DOC staff the SSDs will create additional obstacles to a process that will be fraught with challenges. However, if DOC staff will continue to have a role in the custody of the 16 and 17 year olds being moved from Rikers Island, it is critical that the most appropriate staff who are fully trained in working with adolescents, who are committed to work with this population, who understand and adopt the principles of de-escalation and the use of force only when necessary

³⁵ *Nunez v. City of New York*, The Third Report of the *Nunez* Independent Monitor, dated April 3, 2017, at 3.

are assigned to the SSDs. Staff who have engaged in repeated incidents of unnecessary uses of force should not be eligible to work in an SSD.

This is particularly important, since the use of chemical restraints is prohibited by OCFS regulation in the SSDs. Removal of this tool that DOC officers have come to rely on as a de-escalation measure, will require the officers to develop more finely-tuned techniques to address negative behaviors and prevent fights before they occur. The *Nunez* monitors have specifically recommended that “[o]ne of the ways to reduce the legitimate use of force is to address the situations that trigger them, by preventing Inmate fights and assaults on Staff. This is the goal of most of the sections of the Consent Judgment that pertain to Young Inmates.”³⁶ This move towards a behavioral change model and away from unnecessary and excessive force must be incorporated in the policies and procedures, the training, supervision and accountability measures of the SSDs.

3. Facility Space

Time is of the essence. With just five months to go, the City must identify facilities and develop a model to accommodate 16 and 17 years being moved off Rikers Island,³⁷ as well as new admissions. There has been a steady census over the last few years of about 130 sixteen and seventeen year old boys held on Rikers Island. Horizon and Crossroads each have only 106 beds. In addition, the SSDs must house AOs sentenced to a definite sentence of one year or less. At the same time, ACS must expand its capacity and reach to provide care and custody for juvenile delinquents aged 16 and 17 charged in pretrial detention and those placed after an adjudication, in secure and non-secure placement facilities (Close to Home). There simply are not enough existing beds in the two secure detention facilities to house all of the expected youth within the regulatory requirements. We urge the Council to inquire as to the plans to accommodate all the youth in both

³⁶ Third Report of the Nunez Independent Monitor, at 26.

³⁷ N.Y. Corr. Law §500-p.

secure and specialized secure detention as Raise the Age is implemented and to closely monitor the process as the implementation date of October 1st grows closer.

4. Classification

It is essential that an appropriate classification rubric for the youth held in SSDs be developed. This rubric must not rely solely on age or alleged offense, but rather on service need and safety. We strongly suggest that all 16 and 17 year olds be subject to the same security classification system within the SSDs. Sixteen and 17 year olds are currently held together by DOC on Rikers Island and are also housed together by ACS in juvenile detention.³⁸ We strenuously object to any classification system which creates a false distinction between 16 and 17 year olds whose charges were filed before the removal of youth from Rikers pursuant to Correction Law §500-p, or the full implementation of Raise the Age, and those who enter custody as AOs after October 1, 2018. Such distinctions will only add to the administrative burden of providing services to this needy population, likely resulting in a diminishment of services. The purpose of the Raise the Age statute was to treat both 16 and 17 year olds as adolescents, and not as adults. Maintaining false distinctions between these groups would be counterproductive and would likely limit access to programs and services.

However, given the current plan for DOC to staff the SSDs, at least for the first two years as the City contends, we are opposed to any plans to co-locate the juvenile secure detention facilities with the SSDs as it could result in JOs and JDs being in contact with DOC staff. Further we are opposed to any commingling among AOs and JOs and JDs, that would allow for DOC staff to come into contact with JOs and JDs.

³⁸ ACS currently holds 16 and 17 year olds who were arrested before they turned 16.

F. Educational Services for Youth in Specialized Secure Detention

As New York City builds capacity to serve older youth who will be transitioning from the adult criminal justice system through Raise the Age, its plan must address the need for educational programming. We are concerned that the physical space allotted to the school area in secure juvenile detention may be inadequate to serve the number of youth who will be held in specialized secure detention. We urge the Council to review the plans for enhancing the school area in the Horizon Detention Center. As far as programming, we expect that at a minimum, the City must provide these youth with:

- full day schooling
- access to summer school
- access to remedial reading and mathematics instruction
- for students with disabilities, access to the full range of special education services provided on their IEPs
- for English Language Learners, access to English as a New Language (ENL) instruction
- Transition Specialists to assist with re-entry into the community

G. Close to Home Placement and After Care

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, therapeutic facilities that model the best practices in juvenile justice. ACS DYFJ placement policies provide a therapeutic milieu and emphasize family engagement and early and holistic reentry planning. In planning for implementation of Raise the Age, the City must expand its placement and reentry services to target older youth who may not have significant 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 for referrals to older youth, including educational, employment, and access to independent living and supportive housing services.

As the Council is well aware, the State has failed to provide funding for Close to Home in its budget, slashing 40% of Close to Home's current budget. The City must commit additional resources so that the Close to Home program can function successfully. This cut deprives the City of essential funds for Close to Home programs and aftercare services, among other things. This drastic funding cut is particularly harmful given ACS' report that it will likely double the number of youth served by the Close to Home program once Raise the Age is fully implemented. Close to Home is better for New York City children and families than the previous state placement program, as it truly works towards the rehabilitation of youth, which is the sole goal of the juvenile justice system.³⁹ As we have testified previously, the Close to Home program has conferred remarkable educational benefits to youth.⁴⁰

H. The Courts

Under the new law, the Family Courts will see an increase in the number of youth charged as juveniles. The Courts need to make modifications to be ready for this influx. The Family Courts will require additional judges and court personnel to staff additional parts (courtrooms) to accommodate the increase in filings. Specifically, OCA must devise a plan for the NYC courts to expand its detention facilities to accommodate 16 (and later 17) year olds, and

³⁹ ACS's Close to Home Annual Report 2016-2017, released on February 6, 2018, p. 3 (hereinafter ACS Close to Home Annual Report).

⁴⁰ *Id.*

extend the hours for court intake to make it available to all youth during weeknights.

I. The Need for Oversight is Crucial

Given the potential role of multiple agencies, we urge the Committees on Juvenile Justice and the Justice System to join with the Committee on Criminal Justice in the oversight of the SSDs to ensure that the SSDs are developed and managed safely, and that youth held there receive the age-appropriate services and care to which they are entitled. Additionally, the Council should demand the opportunity to review the policies created to address the use of force and to ensure meaningful measures are taken when staff violate such policies. Generally speaking, we urge the Council to ensure that ACS DYFJ has the funding and the tools necessary to extend its capacity and reach to address the requirements of Raise the Age..

Independent oversight of detention facilities is also critical to ensuring youth are safely and appropriately cared for. While ACS is subject to oversight of other governmental agencies such as OCFS, the Justice Center and of course, the City Council, the mandates and resources of these oversight entities are limited and are subject to political pressures and changes. An independent monitor drives performance by providing facility administrators with leverage to secure resources and programming. External oversight enhances public trust by increasing transparency and accountability.

The Legal Aid Society remains available to assist the City with developing and sustaining improved outcomes for court-involved youth and the implementation of Raise the Age. We again thank the Committee for providing the opportunity to offer testimony regarding this important issue. We are happy to answer any questions you may have.



FOR THE RECORD

Families Rising and the Right to a Second Chance for Children

New York City Council

Bill Baccaglini, President & CEO, The New York Foundling

April 18, 2018

The New York Foundling is one of the oldest and largest child welfare organizations in New York. For a century and a half, we've been at the forefront of child welfare issues and are one of the City's most active partners in protecting children and families.

The Foundling's mission is to empower underserved children and families to live healthy, independent, and fulfilling lives. In support of our mission, we provide evidence-based and evidence-informed programs that focus on keeping families together; preventing abuse and neglect; providing academic support for children; and giving people with developmental disabilities the tools and training they need to lead independent lives.

Over the past decade, The Foundling has become a leader in the field of evidence-based approaches to social welfare, including child welfare, juvenile justice, and a host of other social services. Beginning in 2007 with our pioneering Blue Sky program, we became the first social service agency in the country to apply evidence-based therapies to treating youth in the criminal justice system.

Since then, The Foundling has established several highly successful evidence based programs that help high-risk youth avoid a criminal record, constructively address underlying mental health issues, and build a strong foundation for the future. Based on our standout track record of success, The Foundling was designated an Implementation Support Center in 2012 by the Administration for Children's Services. In this capacity, we support and train other organizations in implementing evidence based programs, including organizations in the United Kingdom, Australia, and beyond. Additionally, in 2013, we became one of seven foster care agencies to partner with ACS in their Child Success initiative to reduce the length of stay for youth in care, affording us the opportunity to implement evidence-based interventions to achieve desired outcomes.

The Foundling is highly collaborative in its approach and works closely with its peers in the child welfare sector. We reach nearly 30,000 children, families and individuals each year; and our programs and services target youth and families at the intersection of multiple disadvantages – both economic and social – and address complex needs in a comprehensive, holistic, and evidence-informed way. We serve a diverse client base that is 45% Black or African American, 32% Hispanic or Latino, 5% White, 8% other races/ethnicities and 9% not reported; and the majority (94%) are under 20 years of age.

About Families Rising:

I. History:

Families Rising was originally established in collaboration with the New York Center for Juvenile Justice (NYCJJ), led by Judge Michael A. Corriero. Judge Corriero was a judge for 28 years in the criminal courts of New York City, and he spent the last 16 years of his tenure presiding over Manhattan's Youth Part – a special court he established in the New York County Supreme Court to hear the cases of adolescents tried as adults pursuant to New York's Juvenile Offender Law.

The combination of The Foundling's therapeutic expertise with Judge Corriero's legal expertise has enabled Families Rising to function as a respected alternative to incarceration option for judges and lawyers responsible for resolving the criminal cases of adolescents. NYCJJ is now a fully-integrated program of The Foundling, and Judge Corriero remains a part of the Families Rising team.

II. The Kids We Serve:

Youth who are tried as adults for crimes committed while they were under age 19 face the very real threat of being sentenced to adult prison. This runs counter to current scientific research that demonstrates significant cognitive differences between adults and adolescents, and places our young people at heightened risk of trauma, depression, suicide, and recidivism.

The Foundling's Families Rising program is one of very few programs that targets this high risk population, and provides them with evidence-based Functional Family Therapy as an alternative to incarceration.

III. Functional Family Therapy as an Alternative to Incarceration

The Families Rising team maintains a high level of program success by strictly adhering to the Functional Family Therapy (FFT) model which is a short-term family therapy intervention and juvenile diversion program to help at-risk children overcome adolescent behavior problems, conduct disorder, substance abuse and delinquency.

Therapists work with families to assess family behaviors that maintain delinquent behavior, modify dysfunctional family communication, train family members to negotiate effectively, set clear rules about privileges and responsibilities, and generalize changes to community contexts and relationships.ⁱ Therapists are only assigned to families after an initial screening process in which they meet all members of the immediate family. They then meet with them for sessions at the young person's home.ⁱⁱ

Functional Family Therapy has demonstrated positive outcomes in clinical studies, which support its effectiveness at reducing family conflict, recidivism, and violent behavior in the long term. In addition to its historically high rates of treatment completion, the program has demonstrated a significant impact on helping the youth we work with avoid incarceration and a criminal record, stay in school, and avoid re-arrest.

FFT has a proven track record of maintaining youth safely in their communities and providing reductions in long-term re-arrest rates, reductions in placements in facilities/group homes, improved family functioning, and decreased substance use. By rigorously adhering to a model that has proven to be successful, our Families Rising team has allowed us to replicate the outstanding results that this model has demonstrated across the country.

The program is estimated to save taxpayers millions of dollars each year in incarceration costs, and was recently expanded with the goal of removing all minors from incarceration on Riker's Island.

IV. Outcomes Achieved:

Since the program's launch, Families Rising has served 251 young people.

Of those youth who completed treatment, 95% avoided a criminal record and 93% avoided incarceration. Only 8% of participants were unable to complete treatment due to re-arrest, compared to a statewide re-arrest rate for youth discharged from foster care placement is approximately 49% within 12 months of release.

	Since Program's Founding 3/01/2012 – 12/08/2017
Completed Program Successfully	164
Unable to Complete Treatment Due to Re-Arrest	21
Unable to Complete Treatment for Reasons Other than Arrest*	39
Currently receiving treatment (as of 12/08/2017)	27
Total Youth Served	251

Malik, a teenager who successfully completed The Families Rising Program said he would not have completed high school if it weren't for the second chance he was given by The Foundling, saying in an interview, "receiving my high school diploma had to be one of the happiest days of my life!"ⁱⁱⁱ Malik's father added, "the therapy was great...it got us to open up."^{iv}

V. Why Families Rising is Important

The program costs significantly less than housing an inmate at New York City's Rikers Island: \$8,400 versus \$167,731. To date, participants have also proved the experiment's validity: Of the Families Rising participants, 97 percent completed the program and avoided a criminal record; 92 percent completed the program and avoided jail time altogether.^v

Incarcerated youth consistently demonstrate elevated rates of trauma, psychiatric disorders, suicide, and re-arrest – all of which can be prevented or mitigated through evidence-based interventions like Families Rising program.^{vi}

By helping youth avoid a criminal record, we are helping to remove barriers to education and employment, and enabling our youth to build a better future for themselves and their families.^{vii}

By helping our youth avoid incarceration, we are helping keep our children in their school and community, reducing their exposure to trauma and delinquent peers, and enabling them to overcome barriers to a successful future.^{viii}

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ⁱ <http://www.blueprintsprograms.com/factsheet/functional-family-therapy-fft>

ⁱⁱ <https://www.theatlantic.com/politics/archive/2016/11/an-alternative-therapy-for-young-offenders-and-their-families/508073/>

ⁱⁱⁱ <https://www.youtube.com/watch?v=ppNWhAqey8M&list=PLjrzo3eZpZG7pt4tBvom2otYqPUytTaXC&index=4>

^{iv} <https://www.youtube.com/watch?v=ppNWhAqey8M&list=PLjrzo3eZpZG7pt4tBvom2otYqPUytTaXC&index=4>

^v <https://www.theatlantic.com/politics/archive/2016/11/an-alternative-therapy-for-young-offenders-and-their-families/508073/>

^{vi} <https://www.nyfoundling.org/blog/evidence-based-alternative-incarceration-youth-trying-adults/>

^{vii} <https://www.nyfoundling.org/blog/evidence-based-alternative-incarceration-youth-trying-adults/>

^{viii} <https://www.nyfoundling.org/blog/evidence-based-alternative-incarceration-youth-trying-adults/>

FOR THE RECORD

The Prospect Hill Foundation
Statement to New York City Council

April 18, 2018

[INTRODUCTION] Good afternoon. My name is Caryn Thor Lesser, and I am here representing The Prospect Hill Foundation.

The Prospect Hill Foundation is a New York-based philanthropy founded by the Beinecke Family more than fifty years ago. Since 2009, recognizing the unique opportunity in NY State for systems transformation, we invested in the movements to establish Close to Home, to Raise the Age of criminal responsibility, and to promote community-based models that present non-incarceration strategies. We promote the leadership of formerly incarcerated youth and their families and a concept of justice that advances rehabilitation.

In both December and February, we spoke at the City Council hearings on Raise the Age. Since that time, we received additional information about the City's plans to use DOC officers to staff the newly created Specialized Secure Detention facilities. This new information failed to alleviate our concerns but rather raised new issues that we hope will be addressed by MOCJ and ACS.

First, we insist the culture and mission of all detention facilities must be rehabilitation. This means that staff should be, exclusively, individuals trained and focused on a rehabilitative approach. 16- and 17-year-olds are still children and must be treated as such. We strongly object to having the staff of the NYC Dept. of Correction inside New York juvenile detention facilities. While the mission of ACS is to serve children, the mission of DOC is custody and control. The City has not provided any plans or assurances for how they will keep

the harmful, abusive culture and practices rampant in the facilities on Rikers away from Horizon, Crossroads and possibly now Ella McQueen. Instead the City has merely acknowledged that staff members will be “chosen for their experience and interest in working with adolescents.” This fails to demonstrate how the City will guarantee that DOC officers will not transmit Rikers’ violent culture and practice to existing juvenile detention facilities.

Second, we are deeply concerned about the way that the City’s plan incentivizes all DOC officers to apply for the new positions at SSD facilities, regardless of any sincere interest or passion for working with young people. Salary raises should be reserved for exemplary ACS staff at Horizons rather than indiscriminately creating higher paid positions. The City’s intent to recruit and retain DOC “skilled” officers by creating a new civil service title is severely misguided and should be abandoned. Training should be for existing ACS counselors to expand their skills and knowledge as they work with older children.

Finally, the reality of declining juvenile crime and arrest rates is here to stay. We implore the City to examine who on Rikers might be eligible for immediate release. Release should be the priority for all children. Public funding would be more wisely invested by the City supporting community infrastructure. We strongly urge the City to substantially increase funding for community-based organizations and diversion programs rather than investing further in detention. Investing in proven programs to strengthen communities and address problems such as housing, employment, education and health will generate greater positive benefits for the entire City. Thank you.



**BROOKLYN
DEFENDER
SERVICES**

TESTIMONY OF:

Amy Albert – Criminal Defense Practice

BROOKLYN DEFENDER SERVICES

Written with Andrea Nieves, Senior Policy Attorney

Presented before

The New York City Council Committee on Juvenile Justice

and the Committee on Justice System

Oversight Hearing on

NYC's Preparedness to Raise the Age

and

Reso. 0283-2018

April 18, 2018

My name is Amy Albert and I am a trial attorney with Brooklyn Defender Services (BDS). Our organization provides multi-disciplinary and client-centered criminal defense, family defense, immigration, civil legal services, social work support and advocacy in nearly 35,000 cases involving indigent Brooklyn residents every year. I thank the New York City Council Committee on Juvenile Justice and the Committee on Justice System, and in particular Chairpersons Andy King and Rory Lancman, for the opportunity to testify about recommendations to ensure successful implementation of Raise the Age (RTA) legislation in New York City.

I am the Coordinator of the Brooklyn Adolescent Representation Team (BART), a specialized unit at BDS made up of dedicated attorneys and social workers that represent over two thousand adolescents ages 13-24 annually. During my tenure at BDS, I have defended hundreds of young people accused of crimes in Brooklyn's criminal and Supreme Court. I currently carry a caseload of more than 100 16-24 year-olds charged with misdemeanors whose cases are adjudicated in Brooklyn's adolescent diversion court part – APY2. Prior to joining

BDS, I worked at the Legal Aid Society's Juvenile Rights Practice representing youth in delinquency proceedings in Brooklyn. I am grateful for the opportunity to speak today about BDS's suggestions for best practices as we move forward with a citywide implementation of Raise the Age.

Introduction

Last year, the New York State legislature passed a law to Raise the Age of criminal responsibility, a long overdue reform. The New York City Council and the Committees on Juvenile Justice and the Justice System can play a critical role in ensuring that the law is implemented effectively for the benefit of young people, their families and communities.

Below we outline a number of potential problems and suggestions for solutions.

Problem 1: Youth facing serious charges will continue to face adult consequences for adolescent behavior post-Raise the Age.

Advocates and legal service providers including Brooklyn Defender Services were deeply disappointed to learn that the bill that ultimately passed the legislature did not require "all kids, all crimes" to have their cases heard in Family Court. Instead, the legislature created a new system for so-called "Adolescent Offenders," youth charged with more serious crimes. These youth will still be exposed to adult sentencing and incarceration in facilities run by New York State Department of Corrections and Community Supervision staff.

Unfortunately, this strategy of continuing to treat the most serious offenders as adults is contrary to a wealth of scientific research on adolescent development. Scientific research confirms that high-risk youth do not benefit from "severe punishment" but they do benefit from programming aimed at pro-social behavior. For example, an August 2015 federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) study followed over 1,300 youth charged with serious crimes in Pennsylvania and Arizona for seven years after their court involvement. The researchers found no meaningful reduction in offending or arrests due to more severe punishment, such as correctional placement versus probation or longer periods of institutional placement. But they did find that the certainty of punishment can play a role in deterring future crimes. Among adolescents who commit serious offenses, "recidivism is tied strongly and directly to their perceptions of how certain they are that they will be arrested," the report said.¹ Serious offenders in placement or receiving out-of-court services benefit the most from interpersonal skills programs (involving training in social skills and anger control) and behavioral programs. Critically, even serious violent offenders can benefit from these interventions.²

While boroughs like Brooklyn have robust and successful programming in place for misdemeanors and low-level cases, the City has not sufficiently invested in the kinds of

¹ Thomas A. Loughran, Robert Brame, Jeffrey Fagan, Alex R. Piquero, Edward P. Mulvey, and Carol A. Schubert, *Studying Deterrence Among High-Risk Adolescents*, OJJDP JUVENILE JUSTICE BULLETIN (August 2015), available at <http://www.ojjdp.gov/pubs/248617.pdf>.

² Mark W. Lipsey, David B. Wilson, and Lynn Cothran, *Effective Intervention for Serious Juvenile Offenders*, OJJDP JUVENILE JUSTICE BULLETIN (April 2000), available at <https://www.ncjrs.gov/pdffiles1/ojjdp/181201.pdf>.

programming that will most successfully end the cycle of re-arrest and conviction that plagues a small number of youth.

In Family Court, programs for youth charged with more serious offenses are generally offered or overseen by probation. In New York City, many of these programs have a long track record in promoting best outcomes for youth. However, in adult court, there are far fewer alternative to incarceration programs, and sometimes the only available options are programs run by the District Attorneys, rather than experts in rehabilitation like probation. The new Adolescent Offender parts should look to the model in family court and encourage new programming from probation.

In my experience, there are a few really strong community-based alternatives to incarceration programs for kids charged with serious crimes: Common Justice, Families Rising and Esperanza are all programs that have made a difference for many of my clients.³ But these programs, because of their success, often have waitlists, or may have to exclude certain youth because of funding restrictions. The City Council should increase support for community-based programs like these, in addition to any programs run by the courts.

Solution A: Fund diverse and appropriate alternative to incarceration programs for adolescents in all five boroughs and increase support for existing successful programs.

Solution B: Require reporting from criminal justice stakeholders to ensure that Adolescent Offenders are, in the vast majority of cases, able to access alternatives to incarceration programs of the same quantity and quality as youth in Family Court.

Problem 2: Youth may face more intrusive interventions in Family Court for low-level adolescent behavior than they do in adult court.

Members of the Council may be surprised to learn that under New York law, youth may be exposed to more intrusive or lengthy interventions in Family Court for behavior that would be adjudicated more quickly in adult court.

In theory, more intrusive interventions may seem like a better way to address adolescent misbehavior; however, the research is clear: when it comes to youth, it is best to steer non-violent youthful offenders out of the criminal legal system as quickly as possible. Studies show that first-time offenders will never be arrested again, regardless of any intervention they receive. Almost 70 percent of youth who are arrested once are never arrested again. 20 percent of young offenders are re-arrested two or three times, with only six to eight percent falling into the category of three arrests or more.⁴ Re-arrest rates appear to mirror the reality in the streets. A

³ Learn more about these three alternative to incarceration programs on their websites, located at <https://www.commonjustice.org/> (Common Justice), <https://www.nyfounding.org/program/juvenile-justice/> (Families Rising), and <https://www.esperanzany.org/> (Esperanza).

⁴ Center on Juvenile and Criminal Justice, "Widening the Net in Juvenile Justice and the Dangers of Prevention and Early Intervention" (August 2001), 4-6, available at <http://www.cjcj.org/uploads/cjcj/documents/widening.pdf>. See also [Marvin E. Wolfgang](#), [Robert M. Figlio](#), and [Thorsten Sellin](#), *Delinquency in a Birth Cohort*, Chicago: University of Chicago Press, 1972; Michael Schumacher and Gwen A. Kurz, *The 8% Solution: Preventing Serious, Repeat Juvenile Crime*, Thousand Oaks, California: Sage Publications, 1999.

recent study found that 91.5 percent of justice-involved youth reported decreased or limited illegal activity during the first three years following their court involvement.⁵ Re-offense statistics hold true whether or not first-time offenders are provided diversion interventions.⁶

Any changes to how we intervene with court-involved youth must aim to limit the potential for net widening. "Net widening" is the name given to the process of administrative or practical changes that result in a greater number of individuals being controlled by the criminal justice system. Research over the past thirty years has shown that prevention and early intervention policies in juvenile justice often subject more youth to formal justice system intervention. This results in the diversion of resources from youth most in need of interventions to youth who may require no intervention. Furthermore, because young people often fail to comply with programming or court requirements, consistent with typical adolescent behavior, longer monitoring periods set them up to fail and exposes them to more severe consequences, i.e. placement or continued monitoring, than they would receive in adult court.

For interventions to be effective, they should be swift, certain, and consistent.⁷ Such interventions allow the young person to connect the negative behavior with the punishment. It also sends a consistent message about accountability and personal responsibility. When creating APY2 – the adolescent diversion court part in Brooklyn – stakeholders designed the court part with this research in mind. The court is a successful model for best practice interventions for young people charged in low level cases.

I have represented hundreds of young people ages 16-24 charged with misdemeanors in APY2 for low-level cases ranging from marijuana possession, jumping a turnstile, shoplifting and possession of fake id cases. Through these cases I am certain that in APY2 cases, the Center for Court Innovation (CCI), defenders, the judge and court staff, and the Brooklyn DA's office have worked hard to provide proportionate and appropriate programming and sentencing. Almost every one of the sentences in these cases ends in an adjournment in contemplation of dismissal in which the case is held open for a period of time and then dismissed. When they do not, a violation plea is taken and the young person does not have a criminal record. CCI provides one, two and three session programming to which young people are mandated. Many of the cases are resolved at arraignments and there is only one follow up court appearance six weeks later to ensure that the young person has completed the mandate.

In Brooklyn, 16- and 17-year-olds charged with misdemeanors almost never receive a jail sentence of any kind. This fact is something Brooklyn court stakeholders are very proud of, and must continue to be the objective when these cases are transferred to Family Court.

In contrast to adult court, a 15-year-old charged with possession of marijuana or fare evasion may be provided an adjournment in contemplation of dismissal in Family Court but never at arraignments. Before any disposition is considered, their life is explored intensively. The youth

⁵ Edward P. Mulvey, "Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders," OJJDP JUVENILE JUSTICE BULLETIN (March 2011), available at <https://ncjrs.gov/pdffiles1/ojjdp/230971.pdf>.

⁶ Ted Palmer and Roy V. Lewis, *An Evaluation of Juvenile Diversion*, Cambridge: Oelgeschlager, Gunn & Hain, 1980.

⁷ Office of Juvenile Justice and Delinquency Prevention, *Combating Violence and Delinquency: The National Juvenile Justice Action Plan*, Washington, D.C.: U.S. Department of Justice, 1996.

and their family are required to report to probation for an adjustment interview, at which point the probation officer looks at their school record, their relationship with their parents, and their compliance with curfew. If any of these are of concern, a risk assessment instrument is completed, the case is sent to court, and there are a minimum of two court appearances before resolution. The adjournment in contemplation of dismissal is monitored and only awarded after another intensive interview with probation and both the young person and their parent. If the young person is found to have other concerns, the requirements are much more intensive. And if the young person continues to fail to comply, they are sometimes sent to placement for behavior that would simply not result in jail time in adult court.

Perceived fairness in the justice process is critical for a young person's success with court mandated programming and/or services. My young clients regularly say to me, "they found me smoking" (marijuana) on Ebbets Field and now they want me to do months of programming and are worried about the fact that I dropped out of school? Adults are ridiculous." When I hear my young clients say this, I know that this is often the point when we may lose their buy-in, with potentially serious consequences. The research bears this out; when young people perceive court procedures to be unfair, they reoffend at higher rates.⁸ It is crucial that the Council provide oversight of corporation counsel, probation and ACS to ensure that any interventions in low-level cases are as narrowly tailored as possible to prevent net widening.

Raise the Age is an opportunity for New York City to treat our 16- and 17-year-olds more fairly and to reduce net widening in the juvenile justice system. We offer the following recommendations to make this happen.

Solution A: Encourage the family courts to use APY2 as a model for short, targeted interventions that will minimize the potential for net widening. The Council can do this by funding new pilot programs like those created by CCI for APY2.

Solution B: The Council should make clear that placement for youth charged with misdemeanors is not acceptable. The Council should require ACS, corporation counsel and probation to report the number of 16- and 17-year-olds charged with all crimes and the dispositions in those cases, including placement. This information should be disaggregated by age, race, and borough (without confidential information). Reporting on dispositions in family court cases are critical for the city to maintain proper oversight.

Problem 3: Parents of teenagers need support in their communities and alternatives other than calling the police to resolve domestic conflict

A large percentage of my caseload involves youth who become justice-involved after a dispute with their parents, siblings or other people in the home. Young people and their families could be invaluablely served if youth had a safe place to stay while both sides had time to cool off after a disagreement. Public defenders in Brooklyn serve around 500 16- and 17-year-olds every year, a vast majority of whom are not being served by Runaway and Homeless Youth providers because of the lack of services in Brooklyn. About half of the youth are made homeless by the criminal justice system when the court issues an order of protection against the youth for 90 days after a criminal allegation involving a domestic disturbance, making it illegal for the young

⁸ Tamar R. Birkhead, *Toward a Theory of Procedural Justice for Juveniles*, 57 BUFF. L. REV. 1447, 1458-59 (2009).

person to return home.⁹ The other half disclose to their defense team that they are living with friends or significant others because of a breakdown of the relationship with their parents.

Right now, too many of our clients live in the streets, “couch surf” or sleep on the floors or couches of friends, neighbors or even strangers. Indeed, homeless youth are more likely to be arrested, engage in criminal activity to meet their survival needs, or engage in unsafe sexual relationships or the commercial sex trade because they need a place to sleep. A 2013 study by Covenant House and Fordham University found that 1 in 4 of the surveyed homeless youth became a victim of sex trafficking or was forced to provide sex for survival needs, such as food or a place to sleep. Of these victims, about half reported that the number one reason they had been drawn into commercial sexual activity was because they did not have a safe place to sleep.

Many of these youth wouldn’t have become homeless if they and their families had a neutral, safe place to go where they can mediate their differences, figure out a family member that the youth can stay with, or collaborate with a case manager about long-term placement options. Adolescent Respite Centers provide parents and youth with a safe place for the youth to stay while both parties cool off. New York State Assembly Members Andrew Hevesi and Joseph Lentol published an opinion piece in *City & State* calling for the creation of respite centers with state social services funds in 2015.¹⁰

I recently opened a respite center in Jersey City, where I live, thanks to the support of Jersey City. At Haven Adolescent Community Respite Center, we provide a three tiered intervention for youth and families in conflict. Haven provides peer based support programs for youth and parents/guardians of teens, psycho-educational interventions designed to help young people and their families to develop communication and conflict resolution skills, and we provide respite care for up to 90 days. Referrals are made as a diversion from police and court systems, from a variety of community organizations, and based on word of mouth. Our programs are focused on supporting youth and their families in strengthening their relationships and bolstering their resiliency. Rather than focusing on which party is to blame, we focus on creating proactive solutions that acknowledge racism, poverty, the role that mental health issues and substance abuse play, and the challenges that immigration, teen pregnancy and issues facing LGBTQ youth present. Most youth return home or to the home of a family member or friend with the consent of their guardians.

In addition to respite centers, we also need more beds for youth who are already homeless. The existing RHY shelter system is woefully underfunded and consequently fails to adequately meet the needs of homeless youth in boroughs like Brooklyn. Kings County alone needs at least 300 crisis shelter beds to ensure that no Brooklyn youth is forced to sleep on the street, sleep on the

⁹ As a matter of practice in Brooklyn, prosecutors regularly ask for and judges regularly issue a full order of protection in cases involving “domestic violence”, even though these are normal disputes between teenagers and their parents. Full Orders of Protection, in effect, usually render our young clients homeless. In contrast, in New Jersey, when EMT’s respond to a domestic disturbance involving a youth, they take the youth to the Emergency Room rather than arresting them. If NYC were to adopt this approach 250 youth in Brooklyn every year would avoid court-mandated homelessness.

¹⁰ Andrew Hevesi & Joseph Lentol, *Opinion: Respite Centers Would Keep Teens Off Streets, Out of Prison*, CITY & STATE, July 10, 2015, available at <https://cityandstateny.com/articles/policy/centers-would-keep-teens-off-the-street%2C-out-of-prison.html>.

train, couch surf, or trade sex for shelter. Right now there are only a handful of crisis shelter beds in Brooklyn and they are only for youth who identify as LGBTQ. The vast majority of runaway and homeless youth must seek crisis shelter beds in Manhattan where they are too often turned away for lack of beds. Runaway and homeless youth have been made homeless by failures of the education system, juvenile and adult justice systems, the foster care system, and adults who have failed to properly care for them. The City can and must address the youth homelessness crisis by opening youth crisis shelters in Brooklyn, the Bronx, Staten Island and Queens.

RFY providers have been unable to open new crisis shelters in boroughs like Brooklyn because the City currently does not fund capital investments. The City should assist RHY providers to locate and secure bed space in Brooklyn as landlords are often reluctant to lease to shelter providers. Even better, the City could renovate existing City buildings such as old hospitals or schools for this purpose and then issue RFP contracts for use of these spaces. Additionally, DYCD's RFPs should include funding for capital expenditures, a current barrier to instituting new beds under the existing DYCD funding scheme. Finally, the RFP should reflect the actual cost of running a crisis shelter bed, as opposed to the current inadequate reimbursement rate. This number must include the provision of wraparound support services for youth housed at the crisis shelter. The availability of high-quality services is critical to the ability of New York's homeless youth to break the cycle of homelessness and court involvement.

Solution A: The Council must work with your colleagues at the State legislature, DYCD, ACS and other stakeholders like BDS to establish and fund respite centers that will be available to provide support to families in crisis – both families that are already court-involved and those who are at risk of becoming so involved.

Solution B: Support the opening of RHY crisis shelters, which provide housing for homeless youth, in all five boroughs. The City must provide reimbursement for capital investments to RHY service providers to allow them to open crisis shelters in the outer boroughs.

Resolution 283-2018

BDS supports Resolution 283-2018 which calls upon the Governor to coordinate a review of cases involving persons convicted of a crime at the age of 16 or 17 years of age, before Raise the Age legislation went into effect, who are currently incarcerated or are sentenced in criminal court to ensure those sentences are equitable and just. By passing this Resolution, the Council sends a powerful message to the Governor, state lawmakers and the public that the City believes that all 16- and 17-year-olds should be treated fairly and in an age-appropriate manner, whether they were sentenced before October 1, 2018 or after.

Conclusion

Raise the Age provides an opportunity for City Council to pay greater attention to how youth are treated in our criminal and juvenile justice systems. We urge you to increase reporting requirements for relevant agencies so that the city can continue to assess the efficacy of our efforts at reform. We also urge you to increase funding for related programs such as alternative to incarceration programs, respite centers and RHY shelters. The reasons for youth court-

involvement are diverse and sometimes complicated. But we can go a long way towards minimizing harm to youth and their communities by fostering transparency and investing in alternatives to jails and prisons.

Thank you for your time and consideration of this important issue. If you have any questions, please feel free to reach out to Andrea Nieves, Senior Policy Attorney, 718-254-0700 ext. 387 or anieves@bds.org.

FOR THE RECORD

TESTIMONY ¹

by

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to the

NEW YORK CITY COUNCIL

Committee on Justice System

Jointly with the Committee on Juvenile Justice

regarding

T2018-1640 and Res 0283-2018

NYC's Preparedness to "Raise the Age" of Family Court Jurisdiction

April 18, 2018

Committee Room - City Hall

Good afternoon.

My name is Jeffrey Butts and I am director of the Research and Evaluation Center at John Jay College of Criminal Justice, part of the City University of New York.

I would like to thank the Chair and other members of the Council for the opportunity to speak today about the quality of interventions for justice-involved young people in New York City and the important developments made possible by the State's Raise the Age legislation.

I live and work in New York, but before coming to the City in 2010, I worked in and around the youth services and youth justice systems of Illinois, Michigan, Oregon, Pennsylvania, and Washington, DC. If you include all my research projects, I have worked with officials and agencies in more than half the States in the country and several other countries as well.

New York State's Raise the Age legislation is an important opportunity to improve public safety, but it is just that – an opportunity. The success of Raise the Age depends on the efforts of every partner in the larger justice system, from police, to prosecutors, probation agencies, and the

¹ Views expressed are the author's alone and do not necessarily reflect those of the City University of New York, John Jay College of Criminal Justice, or any of their sponsors and funding partners.

broad network of service providers who work with youth to keep them from becoming more deeply involved in the justice system.

One of the most important components in the youth justice system--although one that affects relatively few youth overall--is pretrial, secure custody and short-term dispositional sentences. In most States, this function is called "juvenile detention."

Before the passage of Raise the Age, the detention of New York City youth ages 16 and 17 was managed by the Department of Correction and youth were held on Rikers Island. Fortunately, this practice is coming to an end.

But, your work is far from done. The success of Raise the Age depends on City Government and this Council.

Of course, you *could* choose not to make the effort.

If you want to *recreate past mistakes* and operate a costly and ineffective youth detention system, I can recommend 4 great strategies.

1. Exercise very little control or oversight on the uses of secure detention. Just allow individual prosecutors and judges to decide which youth should be detained.
2. Allow any facility holding detained youth to deteriorate into a dirty and dangerous place that immediately frightens any youth who walks into it.
3. Treat juvenile detention facilities like jails and ask the staff to behave like jailers.

and most importantly,

4. Disregard everything we have learned about adolescent development in the past 50 years and simply assume that the best way to control youth behavior is force, violence, and a systematic process of dehumanization.

The "good news" here is that all of these strategies can be implemented just as effectively after the full implementation of Raise the Age as they were before. Simply put, there is nothing magical about changing the age of family court jurisdiction that guarantees a safe and effective approach to youth justice.

Reducing youth crime and safeguarding public safety is a complicated business. Public safety is best protected when the youth justice system places a high priority on working with young people in their own communities, and when the efforts of courts and children's services are coordinated with prevention agencies, schools, social services, neighborhood organizations, and faith-based groups. The most effective youth justice system offers a broad menu of interventions, managed collaboratively and across sectors.

In such a system, the period of time a youth is held in detention is just the beginning of a more expansive and imaginative intervention strategy.

When we confine youth in detention, it is easy to assume that we are protecting the community, but we are actually not doing so. The effects of confinement are short-term and they do nothing to improve the chances that justice-involved young people will turn their lives around.

Confinement by itself does nothing to change behavior.

The active ingredients are actually people, relationships, and the experiences and opportunities youth gain during confinement.

Six years ago, the National Academies of Science assembled an expert panel to review the implications of neuroscience and behavioral science for youth justice. (I was proud to be a member of that panel.) In our final report, we asserted the following key lessons (*some citations omitted from original*):

“Current empirical evidence from the behavioral sciences suggests that adolescents differ from adults and children in three important ways that lead to differences in behavior. First, adolescents lack mature capacity for self-regulation in emotionally charged contexts, relative to adults and children. Second, adolescents have a heightened sensitivity to proximal external influences, such as peer pressure and immediate incentives, relative to adults. Third, adolescents show less ability to make judgments and decisions that require future orientation. ... One can conclude from the body of behavioral and brain studies that adolescents clearly differ from adults in crucial ways that suggest the need for a different response from the justice system.”²

I suggest that this different response should a careful and intense focus on the experiences youth have each and every day they are held in a secure facility as well as the people they encounter during that time.

The people are the intervention; not the building.

² Bonnie, Richard J., Robert L. Johnson, Betty M. Chemers, and Julie A. Schuck (Editors) (2013). *Reforming juvenile justice: A developmental approach*, page 91. Washington, DC: National Research Council of the National Academies.



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 and
Committee on Justice System

*Oversight:
NYC's Preparedness to Raise the Age*

April 18, 2018

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 Council Member Andy King and Council Member Rory Lancman as chairs of the Juvenile Justice and Justice System Committees respectively for holding today's oversight hearing to examine the preparedness of New York City to implement Raise the Age. I would also like to thank all of the members of the Juvenile Justice and Justice System Committees for their commitment to improving the support and outcomes for justice-involved youth.

The State legislation to Raise the Age of criminality is a long-awaited victory for New York's children, youth, and families. The law will finally become effective for 16 year olds in October of this year, and all 16 and 17 year olds will need to be off of Rikers Island by October 1st of this year – less than six months away. It is thus very timely to hold today's hearing to discuss the steps underway to prepare for implementation to ensure New York City is prepared to effectively Raise the Age.

All the changes associated with Raising the Age will need to be well-resourced and juvenile-focused. CCC looks forward to continuing to partner with the Juvenile Justice and Justice System Committees, the City Council, and the Administration to ensure the city is prepared to implement Raise the Age for the benefit of justice-involved youth and community safety.

We believe that the juvenile justice system, and the youth who are touched by it, is a joint state and city commitment. We are deeply disappointed that the State Adopted Budget SFY 18-19 eliminates all state funding for Close to Home and fails to provide any state funding for raise the age expenses. We at CCC commit to continuing to advocate at the State level for State support for the City's juvenile justice system. That said, we appreciate the City Council Preliminary Budget response calling on the Mayor to ensure the upcoming Executive Budget includes the funding for these unfunded state mandates.

CCC offers the following testimony to highlight some of the critical components that must be considered, as well as to make recommendations for implementation. Raise the Age will impact the entire continuum of juvenile justice services and systems.

New York City Police Department (NYPD)

Raise the Age legislation will require all 16 and 17 year olds who are arrested to be treated as juveniles at the time of arrest. This includes a requirement to make "every reasonable effort" to notify the youth's parent or guardian, waiting for the parent or guardian to be present before beginning any questioning, and conducting all questioning in juvenile-appropriate settings.¹ This will ensure 16 and 17 year olds have the support of their parents or guardians during a potentially traumatic and vulnerable moment, having their parents or guardians' input about using their constitutional rights while being

¹ New York Family Court Act § 305.2.

questioned, and lets parents or guardians know where their child is and what is happening.

CCC Recommendations Related to the NYPD:

- Employ Techniques to Engage Parents of Older Youth – It is of paramount importance that parental notification procedures encourage parents to meaningfully support their children. The NYPD will need to encourage the parents of these older youth to come meet their child and assist the youth in the legal process. Engaging parents when a youth is arrested is mutually beneficial to the youth and NYPD as support from a youth’s parents and family can often be one of the most effective ways to address youth needs and behavior. In contrast, an arrest can be a dividing moment between a youth and their family support if parents are not promptly involved or are discouraged from helping their child.
- Ensure 16 and 17 Year Olds Who Do Not Need to be Brought to Detention are Picked up or Driven Home – Currently, many 16 and 17 year olds are released by the police with desk appearance tickets. We do not want to see an inability to engage parents lead to youth needlessly being brought to detention.

PROBATION

Probation will have a large and important role in implementing Raise the Age, to ensure 16 and 17 year olds receive effective services and that adjustment opportunities are robustly utilized. Probation responsibilities include intake assessment, adjustment, and supervision.

Adjustment is a hallmark of the juvenile justice process and is one reason why the juvenile justice system has been much more successful than the adult system. The adjustment process allows eligible arrested youth to participate in services and sets certain requirements. If the youth is successful in this program, their case can be closed without any further actions or any legal record. This adjustment period is two months long with an additional two months available upon court approval. Over a quarter of current youth, especially youth charged with lower level crimes, are able to utilize the adjustment process for a successful outcome.² Adjustment often provides youth with services and supervision that helps them get back on track while quickly ending their justice-involvement without court involvement.

Probation supervision, which can be pre-adjudication or post-adjudication, is also an 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. Nearly all youth receive probation supervision pre-adjudication and thirty-one percent of

² Id.

adjudicated youth are currently mandated to participate in probation supervision after court adjudication.³

CCC Recommendations Related to Probation:

- Increase Juvenile Probation Capacity – Probation will have to serve 16 and 17 year olds through their juvenile probation staff instead of their adult probation staff. Juvenile probation services include smaller caseloads, which is one fundamental reason why juvenile probationary services are much more effective. Raise the Age will thus require additional juvenile probation officers to handle the additional juveniles.
- Use Effective Services - Raise the Age will mean that Probation will serve a slightly older population with some different types of needs and characteristics. Probation is responsible for developing and supervising the case plan for a youth that can address the youth's particular circumstances, and the foundation of this probation process is partnering the youth with effective services. This can include services like one-on-one mentoring with credible adults, clinical therapy, 24/7 crisis intervention specialists, academic tutoring, community-improvement projects, art programs, vocational training, and employment. Probation must have effective services to serve this new slightly older population of youth with services that both appeal to these youth's motivations and address these youth's needs.
- Utilize Adjustment for Appropriate Youth – Adjustment is the important opportunity where a youth's case can be closed before extensive legal action and without a record if a youth successfully participates in Probation services. CCC emphasizes the importance of Probation using adjustment as much as possible for the new youth who will be in the juvenile system under Raise the Age, and we are encouraged by Probation's statements that they intend to do this. Providing adjustment services to 16 and 17 year olds is one of the key purposes of the entire Raise the Age legislation as it provides dramatically improved outcomes for the youth and for public safety. Using adjustment as much as appropriately possible will also greatly assist the City's capacity needs in detention, court, and placement, as those youth who are not adjusted will instead move further along the justice continuum.

DETENTION

Raise the Age will impact juvenile detention in a number of ways, including adding more youth of a slightly older age and the need to create new "specialized secure detention" for Adolescent Offenders (and the youth being moved from Rikers). In sum, CCC urges the City to ensure the new detention capacity is adequately funded, that alternatives to detention are used as much as appropriately possible, and that the city find an alternative

³ "New York City Juvenile Justice Profile – 2016." New York State Division of Criminal Justice Services. September 1, 2017. Available at <http://www.criminaljustice.ny.gov/crimnet/ojsa/jj-reports/newyorkcity.pdf>.

to their stated plan to use Department of Corrections (DOC) staff for the specialized secure detention units.

Currently in New York City, most detained 16 and 17 year olds are held on Rikers Island. Under the Raise the Age legislation, all detained 16 or 17 year olds will instead be in an ACS detention facility or one contracted by ACS. This will be effective on October 7, 2018 for 16 year olds and October 7, 2019 for 17 year olds. Additionally, all 16 and 17 year olds must be off of Rikers Island by October 7, 2018.

ACS oversees non-secure detention facilities and currently administers two secure detention facilities for juveniles. After Raise the Age, most 16 and 17 year olds will be treated as juveniles under the Family Court Act and will use these same type of detention facilities. However, 16 and 17 year olds who are charged with certain more serious crimes and who are not able to have their case transferred to Family Court, will be charged in adult court as “Adolescent Offenders.” Sixteen or 17 year old Adolescent Offenders will be detained in new detention units known as specialized secure juvenile detention centers for older youth. These units are to be operated by ACS but must also be operated in conjunction with DOC. No additional information is mandated in the statute about what it means to operate in conjunction. 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.

CCC Recommendations Related to Detention:

- Limit Unnecessary Detention - As mandated by the Family Court Act, detention should be used only when there is a substantial probability that the youth will not appear in court on the return date or there is a serious risk that the youth commit a delinquent act.⁴ Placing a youth in detention has a large impact on a youth’s life, and often increases the likelihood of future delinquent behavior while negatively impacting mental well-being, physical well-being, education, and employment.⁵ The isolation from natural supports and positive opportunities, combined with negative peer associations and incarceration settings, can reinforce a youth’s self-association with criminal identity. It is thus vital that detention only be used when absolutely necessary.

The City has made remarkable improvements to only use detention when appropriate and to utilize alternatives to detention, but there continues to be room for more improvement. 68% of youth detentions occur before a Family Court Judge hears a case, and 52% of youth detentions end up being for three days or

⁴ NYS Family Court Act. Section 320.5(3).

⁵ See http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf (Conducting a literature review to find detention leads to negative outcomes for youth’s mental and physical well-being, education and employment. Cites studies in Wisconsin, Arkansas, and Oregon that found higher correlations for recidivism and detention.)

less.⁶ Many youth are sent to a detention facility after an arrest but are released as soon as a Family Court Judge reviews the case. These detentions are likely not necessary as demonstrated by a Family Court Judge soon thereafter releasing the youth because they do not present an ongoing flight or criminal risk. Moreover, these detentions are unnecessarily harmful to the youth's well-being and very often only serve to worsen the youth's conditions and behavior.

Police, ACS, the Family Court system, and other City agencies should continue to work together to avoid the use of unnecessary detention, especially for those youth who will be detained for only very short stays before being released by the Court. One way this can be done is to increase training about when detention is appropriate, the negative outcomes of unnecessary detention, and feedback about how often an youth's detention is overruled once a Judge reviews the case.

Furthermore, many detentions occur because it may be considered more convenient to bring a youth to detention if there is resistance from the family for youth returning home, when the underlying issue involves family dispute, or when it is logistically convenient. These issues may likely become even more prevalent for the slightly older population of 16 and 17 year olds. When there is family conflict or the parent does not support the youth coming home, the City must not use detention as a convenient solution but must instead use assistive services and alternative programs. Detention should never be a tool of convenience and should be avoided when at all possible. ACS, Probation and the NYPD will need to work collaboratively to ensure there are policies, procedures and staff in place to transfer youth home rather than keep them overnight in detention.

- Ensure Detention Capacity is Adequate – ACS will need to be able to provide additional capacity in their non-secure detention facilities and secure detention facilities for the additional 16 and 17 year olds who will be under their care after Raise the Age, as well as the youth who will be transferred from Rikers. 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 will include the need for specialized secure detention facilities for Adolescent Offenders.

The City's plan to implement Raise the Age heretofore has included the use of the State's Ella McQueen juvenile facility. Despite advocacy from CCC, the City and other partners, the final State Budget did not include a provision to allow this facility to be transferred to the City in an expedited timeframe; therefore, state law still requires the state to give 12 months notice prior to closing this facility. This seems to make it impossible for the City to use this facility as a detention facility

⁶ "New York City Juvenile Justice Profile – 2016." New York State Division of Criminal Justice Services. Accessed on April 10, 2018. Available at <http://www.criminaljustice.ny.gov/crimnet/ojsa/jj-reports/newyorkcity.pdf>. (27% of probationary cases are successfully adjusted.)

in time for the first implementation deadline of October, 2018. Though this setback undoubtedly adds further challenges, CCC emphasizes that any solution should not sacrifice quality for youth detained, and in fact further emphasizes the importance of adjustment and alternatives to detention.

- Review and Update Policies to Accommodate 16 and 17 Year Olds – 16 and 17 year olds, though still adolescents like those under 16, may also have some different needs compared to younger youth that should be considered. These might include a higher number of youth who have children, different educational needs and objectives, different maturity levels, and different behavior needs. Policies, procedures, and staff training should be provided that ensure these youth are still provided a juvenile, rehabilitative environment, while also adapting to any unique needs.
- **USE JUVENILE STAFF FOR ALL DETENTION** – The new specialized secure detention facilities will need to have staff, and the City has stated its plan to use DOC staff for up to two years due to staffing challenges within ACS. CCC is deeply concerned with this plan and urges the City to find an alternative so that the adult correctional model is not installed in juvenile facilities.

While CCC appreciates that the City's plan will be for ACS to have case-planning responsibilities and that ACS and DOC are to jointly create a vision for the operation of the facility with the intent of a youth-centered model, these measures cannot mitigate the risks of using DOC staff to oversee 16 and 17 year olds. CCC is concerned that even if ACS transitions to primary staffing after two years, the negative culture that dominates at Rikers will be replicated in the new facilities, a damage that will be extremely difficult to undo and which risks negatively impacting the culture at ACS and the youth they serve, including the younger children.

Though DOC leadership has undertaken noble efforts to address the extremely negative experience of people within Rikers, much of the culture within DOC has not changed. DOC has been mandated by the Court in *Nunez v. City of New York* to address the serious maltreatment of 16 to 18 year olds in Rikers since 2015.⁷ Despite a court order, sincere commitment from many in DOC leadership, and new policies over the past two years, the culture of abuse, mistreatment, and confrontation remains. The most recent independent court-appointed monitor for *Nunez vs. City of New York*, published in October 2017, found continued mistreatment for youth at the hands of DOC staff, including the observation that “serious and problematic issues involving Staff use of force continue in an

⁷ *Fourth Report of the Nunez Independent Monitor, January 1, 2017 through June 30, 2017*. The Nunez Monitoring Team. October 10, 2017. Available at <https://assets.documentcloud.org/documents/4173501/Fourth-Monitor-Report-as-Filed-Nunez.pdf>.

unabated fashion.”⁸ The monitor report notes that “[t]he 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.”⁹ This type of wide-spread culture cannot be allowed into juvenile facilities. Indeed, DOC labor representatives have clearly stated they do not want their DOC staff to be used for these juvenile positions.¹⁰

One of the core purposes of Raise the Age was to give youth the benefit of age-appropriate juvenile services instead of the adult correctional model. All of the great work ACS has done in its detention facilities is threatened by bringing DOC staff to ACS detention facilities. Removing youth from Rikers Island but failing to remove youth from the direct control of DOC staff would be a terrible misstep. In short, we do not want to simply move Rikers to Horizons.

CCC appreciates the need for urgency in planning for the implementation of Raise the Age and we understand the enormous challenge of hiring and training sufficient staff to handle the increased capacity in youth facilities. CCC urges the City nonetheless in the strongest terms to reconsider its decision to have DOC staff in juvenile detention facilities.

CCC believes that if the City wants to ensure that ACS has juvenile justice counselors employed by ACS by the October deadline, hiring this staff is possible if it is a priority. The City was able to find and train staff in an expedited manner for its dramatic expansion of prekindergarten classes. For example, perhaps the City could put out an emergency civil service test or contract out the services to a juvenile justice provider with this type of experience.¹¹

- If DOC Staff are Nonetheless Used, Reduce Negative Impact – In the event that DOC staff are used, CCC strongly recommends that every precaution is taken to ameliorate the threats that DOC staff might have on the juveniles in a specialized secure detention facility. CCC recommends that:
 1. No DOC staff be permitted to come into contact with youth under 16 or any non-DOC-supervised youth under any circumstances;

⁸ *Fourth Report of the Nunez Independent Monitor, January 1, 2017 through June 30, 2017*. The Nunez Monitoring Team. October 10, 2017. Available at

<https://assets.documentcloud.org/documents/4173501/Fourth-Monitor-Report-as-Filed-Nunez.pdf>.

⁹ *Id.*

¹⁰ *Hearing Transcript – Juvenile Justice Committee, February 28, 2018*. New York City Council. February 28, 2018. Pages 92-94. Available at

<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3321582&GUID=CCA292D6-595D-48F7-AB37-795A79DDF948&Options=&Search=>. (President of Social Services Employees Union Local 371 noting the negative culture of Rikers and the desire to not use staff from Rikers in juvenile units.)

¹¹ For example, Westchester County contracts out secure detention to Leake and Watts (and soon Children’s Village).

2. A selection process be used that identifies DOC staff that have a true interest and ability to work with youth, and the selection process does not only consider seniority;
3. The selection process begin immediately so that the staff could receive extensive training;
4. Training includes teaching staff in appropriate ways to interact with youth (for example, DOC staff would need to learn juvenile-appropriate practices to deescalate situations without using pepper spray or handcuffing youth to desks which are currently allowed in Rikers but not in juvenile facilities), as well as training in the background of adolescent development and juvenile justice best practices like trauma-informed care; and
5. All DOC staff are supervised by ACS and have ACS staff present within these detention units.

PLACEMENT

When a youth's case proceeds to court, a judge may order placement in a residential facility if the judge determines the youth committed the alleged act and needs supervision. ACS supervises all non-secure and limited-secure placement facilities through the Close to Home program, which represents the vast majority of juvenile placements. ACS works with local child-serving providers to use small, residential facilities within or near to New York City that provide an array of evidence-based services while keeping most youth enrolled within the New York City Department of Education. Close to Home facilities have partnered with a remarkable number of programs to bring services into the facility and to provide supervised visits with pro-social programs located outside of the facility. The facilities themselves all utilize research-based models of supervision that support youth needs, teach youth positive behavior skills, and provide safe environments where youth can stabilize and begin the process of successful rehabilitation and reentry back to the community.

Close to Home, like all placement services in New York, had been funded by both the State and the City. The recent State Adopted Budget, however, cut all State funding for the Close to Home program – a loss of \$31 million that the City had been budgeted in previous year. CCC had worked tirelessly to save this funding and appreciates the partnership from the City Council and the Administration to restore the State's funding for Close to Home. We are extraordinarily disappointed the final State Budget does not include this funding, even though Close to Home will be essential to successfully implementing Raise the Age.

CCC Recommendations Related to Placement:

- **Expand Close to Home Capacity** – Raise the Age will impact Close to Home placements by increasing the number of youth placed. The City must now be prepared by ensuring it has the capacity to accommodate these additional youth, and that these facilities have the services and staff that can meaningfully support this population of slightly older youth. Though State funding was cut, CCC strongly recommends that the city nonetheless continues to invest in the existing

facilities and increases their funding to open additional facilities to accommodate any increased need for additional beds.

- Ensure Services are Robustly Available – The Close to Home program has been a great success in large part due to having many different types of services readily available to support youth needs. Close to Home services address many youth needs, such as individual mentoring, clinical therapy, teaching behavior skills, academic support, artistic development opportunities, vocational training, recreation, employment, and many other positive programming partnerships. Additionally, Close to Home has also utilized staff that can provide transformational support through relationships and practices grounded in promoting adolescent development. Close to Home must continue to provide these types of qualitative services and supports to ensure Raise the Age can provide opportunity and successful outcomes for the new population of youth.
- Improve Feedback on Outcomes for Providers – Close to Home providers care for youth with evidence-based programming and utilize many of the best practices to support youth development, but they are not provided with adequate feedback or reporting about the mid- to long-term outcomes for their youth. After a youth leaves a Close to Home provider, the provider is not provided any information from ACS or other City agencies about the status of that youth. Providers have indicated their desire for this information so they can ensure their work is providing long-term benefits. Many providers go out of their way to stay connected to their youth on their own time and through their own means using the positive relationships they have developed with the youth. This is not possible though in many circumstances and does not provide a data-informed feedback loop that could otherwise help Close to Home providers improve their work. ACS and other City agencies oftentimes have access to how a youth is doing for months, and sometimes years, after a youth leaves a Close to Home provider, and the City should explore opportunities to give providers more information about how youth are doing after leaving their facilities.

CITY FUNDING

Though Raise the Age will not add new individuals to the justice system (it will instead treat 16 and 17 year olds in the juvenile system instead of the adult system), Raise the Age will need additional funding for transitional changes and to create the continuum of services and youth-specific opportunities that are part of the juvenile justice system. Simply changing the legal labels but not providing the full continuum of juvenile services would be a tragic failure.

The recently passed State budget regrettably did not help New York City with the needed new funds. It not only restricts New York City from accessing any of the allocated \$100 million of funds available to implement Raise the Age, it cut all \$31 million of budgeted funds for Close to Home. CCC is deeply disappointed with the final outcome.

City Funding Recommendation:

- Fully Invest in Close to Home and Raise the Age – In light of the State shirking its responsibility to New York City's youth absence, the City will need to commit to funding raise the age expenses (as well as Close to Home for younger youth and 16 and 17 year olds). CCC looks forward to seeing the funding in the Executive Budget that supports all of the transitional changes associated with Raise the Age as mentioned in this testimony, including training for NYPD, Probation services and increased numbers of juvenile officers, detention capacity, and placement capacity. Each of these are not only vital to implement Raise the Age, but will have manifold benefits by giving 16 and 17 year olds the support for bright futures that they are lacking all too often in the adult system. CCC will continue to advocate for state support, but urges the City to ensure its youth receive the care and services they need.

CONCLUSION

CCC is excited for the potential of dramatically improved outcomes by finally Raising the Age. Though there will be a time of transition with many changes, including an urgent need for funding in this year's Executive Budget, CCC remains confident that youth, their families, public safety, and our entire city will reap manifold rewards for this long-awaited improvement. To ensure this success is possible, CCC once again urges the City to rethink its plans to bring DOCs staff into the juvenile detention centers, as this will change the culture and negatively impact the great strides that ACS has made- for decades to come.

Thank you for the opportunity to testify.



NYCLU

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**Testimony of the New York Civil Liberties Union
Before City Council Committee on Justice System and the Committee on Juvenile Justice
Regarding New York City's Preparedness for Raise the Age Implementation**

**Given by Nicole Triplett
April 18, 2018**

The New York Civil Liberties Union (NYCLU) respectfully submits the following testimony regarding New York City's preparedness to implement state legislation to raise the age of criminal responsibility in New York. Our testimony today focuses on the prospect of using corrections officers employed by the New York City Department of Correction (DOC) to staff newly created specialized secure detention facilities for 16- and 17-year-olds.

I. Introduction.

The NYCLU, an affiliate of the American Civil Liberties Union (ACLU), is a not-for-profit, non-partisan organization with eight offices throughout New York State and more than 200,000 members and supporters. The NYCLU's mission is to promote and protect the fundamental rights, principles, and values embodied in the Bill of Rights of the U.S. Constitution and the New York Constitution.

Among our priorities is ensuring that youth who enter the justice system are treated in a manner that is humane, just, and age-appropriate. In a major class action lawsuit settled last summer, the NYCLU sued the Onondaga County Sheriff's Office over its use of solitary confinement for 16- and 17-year-olds held in its adult county jail, and for denying them appropriate educational services and programming. Here in New York City, we have long demanded that the city improve its educational services and overall conditions for adolescents detained on Rikers Island, while further calling for the jail to be shut down completely.

In recent years, federal lawsuits and investigations have prompted some needed changes at Rikers, and the growing calls to amend and improve state law hold the potential for further reform. Significantly, the city jail put an end to the practice of using solitary confinement for those 21 years old or younger.¹ Moreover, under the new Raise the Age laws enacted by the state last year,

¹ Michael Winerip & Michael Schwartz, *Rikers to Ban Isolation for Inmates 21 and Younger*, N.Y. Times (Jan. 13, 2015), <https://www.nytimes.com/2015/01/14/nyregion/new-york-city-to-end-solitary-confinement-for-inmates-21-and-under-at-rikers.html>.

the city is required to move all 16- and 17-year-olds off of Rikers and into facilities run by the New York City Administration for Children's Services (ACS).² Removing the adolescent population from Rikers will be a major step forward in the process of closing the jail facilities on Rikers Island and in reforming New York's juvenile justice system.

However, we are concerned that the city's proposed plans to implement this first phase of Raise the Age will not accomplish the law's intended goals and will fail to address the problems faced by youth at Rikers. Specifically, we are concerned that the city may replicate some of the worst problems of Rikers by using DOC corrections officers to operate the new facilities, rather than ACS employees who are trained to work with children. We urge the City Council to use its oversight powers to ensure that the vision of last year's landmark Raise the Age legislation is not undermined.

II. The culture of violence that persists at Rikers Island must not be replicated at new specialized detention facilities for adolescents.

The deplorable conditions and history of inhumane treatment of Rikers Island's adolescents are well documented. Less than four years ago, an investigation by the U.S. Attorney's Office for the Southern District of New York concluded that there was a "deep-seated culture of violence" at Rikers and a pattern and practice of conduct that violates the constitutional rights of adolescent held there.³ The investigation found that force was used against adolescents at an alarming rate, including in response to mere verbal altercations, and that officers had inadequate training on managing adolescents in their custody.⁴ The report came at a time when the city was already facing a lawsuit brought by incarcerated persons over the violent actions of corrections officers, which settled in 2015 with a number of agreed upon reforms, including multiple reforms specific to adolescents, and the appointment of a federal monitor.⁵

Yet, despite making significant changes to how adolescents are managed at Rikers, those changes have not halted the abusive practices of DOC staff, and Rikers remains a uniquely dangerous environment for young people. As documented by the court-appointed monitor overseeing the Rikers settlement, while overall use of force incidents against young people have decreased somewhat, DOC staff are still using force against adolescents and young adults at disproportionately high rates.⁶ During the most recent year-long monitoring period, 16- and 17-year-olds comprised just 3.5% of the total population of persons held at Rikers, yet they were

² See N.Y. Correction Law § 500-P.

³ Bharara, P., Samuels, J., Powell, J., & Daughtry, E., *CRIPA Investigation of the New York Department of Correction Jails on Rikers Island*, p. 3, U.S. Department of Justice, U.S. Attorney for the Southern District of New York (Aug. 4, 2014), available at <https://www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/SDNY%20Rikers%20Report.pdf>.

⁴ *Id.* at p. 4.

⁵ Michael Schwirtz, *Judge Approves Settlement of Suit on Rikers Island Brutality*, N.Y. Times (Oct. 21, 2015), <https://www.nytimes.com/2015/10/22/nyregion/judge-approves-settlement-of-suit-on-rikers-island-brutality.html>.

⁶ The Nunez Monitoring Team, *Fourth Report of the Nunez Independent Monitor*, p. 205, available at https://www1.nyc.gov/assets/doc/downloads/pdf/Fourth_Report_Nunez_Independent_Monitor_10.10.17.pdf.

subject to 16% of uses of force reported by DOC officers.⁷ The monitoring team was blunt in identifying the overall culture of violence among corrections officers at Rikers, writing: “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.”⁸

This history and culture of violence at Rikers, and the risk it poses to young people in particular, cannot be eliminated by a plan that would effectively relocate the same punitive carceral structure to a different location. State lawmakers understood this when they passed the Raise the Age legislation last year. The law mandates that by October 2018, all 16- and 17-year-olds must be moved off of Rikers and placed in specialized facilities certified by the Office of Children and Family Services (OCFS) and run by ACS, in conjunction with the city DOC.⁹

The plain language and obvious purpose of these provisions were to reduce the primary role that DOC corrections officers currently have in managing youth in custody and to move that authority to an agency expressly tasked with meeting the needs of children and adolescents. The city must not undermine the letter and spirit of Raise the Age by keeping DOC officers in charge of adolescents held in custody, and should explore all options to ensure that such children are served by a youth justice system that can meet their unique needs.

III. Adolescents in detention must be supervised by those who are specially trained and tasked with working with young people.

Our belief that adolescents in detention should be supervised by those specially tasked with working with youth is informed by prevailing scientific consensus on adolescent development, trends in the law, and our own experience representing and advocating for youth caught in the criminal justice system. The Supreme Court has, in several contexts, recognized the need to treat youth differently than adults.¹⁰ Reflected in these legal precedents is the reality, supported by scientific research, that children have particular psychological vulnerabilities and a different capacity for decision-making that demand a unique approach in the realm of criminal justice.¹¹

In the NYCLU’s case challenging the detention practices in Onondaga County, we saw firsthand the harms that arise when corrections officers who are trained to manage adults are

⁷ *Id.* at 30.

⁸ *Id.* at 7.

⁹ *Supra* note 2.

¹⁰ *See, e.g., Roper v. Simmons*, 543 U.S. 551 (2005) (holding that execution of individuals who were younger than 18 years old at the time of their capital crimes is unconstitutional); *Graham v. Fla.*, 560 U.S. 48 (2010), *as modified* (July 6, 2010) (holding that life sentences for juveniles without parole for crimes other than homicide are unconstitutional) (“developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds”); *J.D.B. v. North Carolina*, 564 U.S. 261 (U.S. 2011) (holding that child’s age is relevant for Miranda analysis when known to an officer at the time of interrogation).

¹¹ *See, e.g.,* Marsha Levick et al., *The Eighth Amendment Evolves: Defining Cruel and Unusual Punishment through the Lens of Childhood & Adolescence*, 15 U. Penn. J. of L. & Social Change 287, 293-98 (2012).

charged with supervising adolescents. When being held at the county jail, our 16- and 17-year-old clients were placed in solitary confinement for up to 23 hours a day, provided essentially no educational instruction, and subjected to indignities such as being watched by corrections officers when showering and being placed in cells next to adults who were verbally threatening them.¹² We found that the Onondaga County Justice Center in Syracuse held approximately 30 juveniles, many of whom had disabilities. In granting a preliminary injunction halting use of solitary confinement in the jail, a U.S. District Court found substantial evidence that jail officials knew of, but chose to disregard, the risks that the practice posed to juvenile detainees.¹³ The district court found that based on the medical and psychiatric expert affidavits that detailed the unique impact of the conditions on the juvenile detainees, the jail officials likely acted with deliberate indifference to the excessive risk posed to the juveniles' health and safety.¹⁴ The failure of corrections officers to appreciate the unique needs and vulnerabilities of adolescents led to unconscionable violations of their civil liberties.

These experiences further support the need to fully and meaningfully remove adolescents from the adult incarceration system they are subjected to at Rikers by ensuring that new facilities are not staffed by the DOC. Notwithstanding improvements in training and staff placements at Rikers Island's youth facilities, a fundamental problem remains in having DOC corrections officers primarily tasked with guarding adults in charge of children. Serious reform of the treatment of youth in custody cannot happen by simply modifying what is, in core design and reality, a model of adult incarceration. The city must ensure that youth are served by staff that are suited to work with adolescents.

IV. Conclusion.

In order to fulfill the promise of Raise the Age, it is imperative that the city does all that it can to ensure that 16- and 17-year-olds are not just physically moved from Rikers Island, but that they are provided with a model of youth justice that responds to their needs. We are not unaware of the logistical hurdles that the city faces in implementing this first phase of Raise the Age. However, the bureaucratic difficulties of hiring and training new staff should not be an impediment to delaying needed reforms for New York City's justice-involved youth.

We thank the committees for the opportunity to testify on these important matters, and ask again that the City Council do all that it can to ensure that specialized secure detention facilities are staffed by ACS employees trained to work with youth.

¹² *Lawsuit: Syracuse Jail is Harming Children with Abusive Solitary Confinement Conditions*, New York Civil Liberties (Sep. 21, 2016), <https://www.nyclu.org/en/press-releases/lawsuit-syracuse-jail-harming-children-abusive-solitary-confinement-conditions>.

¹³ *V.W. by & through Williams v. Conway*, 236 F. Supp. 3d 554, 583 (N.D.N.Y. 2017).

¹⁴ *See V.W.*, at 19.



Stanislao A. Germán, Executive Director
Carolyn P. Wilson, Director

4/18/2018 CITY COUNCIL HEARING

T2018-1640

Oversight – NYC’s Preparedness to Raise the Age

TESTIMONY OF NEW YORK COUNTY DEFENDER SERVICES

I thank you for this opportunity to provide the institutional indigent defender perspective on what is a welcome but profound change in this city’s criminal justice landscape. As you know, on October 1st everything changes with respect to sixteen year olds arrested in New York. I want to focus briefly on felony arrests of this group because it best illustrates how even this highly laudable change can present a great many challenges to an institutional defender.

Raise the Age legislation creates a new subset of defendants. Under the new law, a sixteen year old charged with a felony will be deemed an “adolescent offender” under our Criminal Procedure Law. The case will originate in a specially designated Youth Part within Superior Court presided over by a Family Court Judge who has received specialized training in juvenile justice, adolescent development, the custody and care of youth, and in effective treatment methods. Under this new legislation, even a violent felony offense will be subject to removal to Family Court. The Youth Part will review the accusatory instrument and determine, after hearing from the parties, if the People have proven by a preponderance of the evidence one or more of the following: I) defendant caused significant physical injury to a person other than a participant in the offense; or II) defendant displayed a firearm, shotgun, rifle or deadly weapon; or III) defendant unlawfully engaged in sexual intercourse, oral sexual conduct, anal sexual conduct or sexual contact as defined in PL §130.00. If the People fail to so prove one or more of the above, the case will be removed to Family Court absent a finding of “extraordinary circumstances.”

The likely result of these exacting standards is that a clear majority of felonies that involve sixteen year olds and that today are handled in Supreme Court will still originate there but will then be transferred to Family Court for ultimate disposition. And next year at the same time this change will expand to include seventeen year olds. Given what we as a society now know about adolescent neuroscience, this is

entirely appropriate. But there is a definite potential for unforeseen damage if the city institutions involved aren't properly supported.

For example, everyone with a stake in our criminal justice system recognizes the importance of continuity of legal representation for the criminally-involved youth. The attorney-client bond is always critical but never more so than in the context of a child and her family being subjected to a criminal prosecution. New York County Defender Services has a specialized Juvenile Defense Unit to meet the challenges of these cases. The unit consists of attorneys and social workers who have developed expertise in the various scientific and legal considerations central to this practice area.

At present, however, this unit and our office's practice occurs entirely in criminal and supreme court, not in Family Court. NYCDS is wholly committed to continuing to provide our clients only the highest level criminal advocacy. Beginning October 1st this will necessarily mean expanding our practice areas to include family court so that we can follow those clients of ours whose cases originate in adult court but are then removed to family court. But while our commitment and skill are unquestioned, we are also dependent on significant financial and logistic support to execute this expansion seamlessly and effectively.

Family Court is a highly specialized environment, different in kind from adult criminal court. An institutional defender like ours venturing into that arena for the first time must be given the resources, financial and otherwise, to hire, train, and support the attorneys, social workers, investigators, and supervisors who will make the representation of children in this high-stakes environment their primary focus. The myriad challenges are too extensive to list here entirely but they have in common a need for resources.

The city and all other relevant parties must prioritize above all the legal representation our children are provided when caught in the maelstrom of a criminal prosecution. This means, among other things, working closely with institutional defenders to identify the areas most in need of financial and other investment. Failure to do so would enervate the long overdue Raise the Age reforms before they can even take hold.

Sergio De La Pava
Director of Special Litigation
New York County Defender Services

New York City Council Juvenile Justice Committee April 18,
2018 Mentoring that Really Works! by Chris Norwood, Executive
Director Health People www.healthpeople.org



HEALTH PEOPLE
Community Preventive Health Institute

Thank you for having me to the Juvenile Justice Committee. It's a great privilege to be able to talk about programs that work for our youth because they are programs that support and empower the community itself to help youth build their lives. I underscore that programs that work on the principle of being part of the community unquestionably reduce youth crime and any need for incarceration

I am Chris Norwood, Executive Director of Health People, a pioneering peer-educator driven health education and disease prevention organization founded in the South Bronx in 1990. We have powerfully seen how training community residents who are themselves impacted by AIDS and chronic disease to teach prevention and self-care in their neighborhoods has achieved results that are simply outstanding. For just one example, with our diabetes peer leaders, we now have the largest community-based diabetes self-management program which local residents teaching hundreds of other people with diabetes the Stanford Self-Management program which is proven to lower blood sugar levels, depression and the risk of terrible complications like amputation and blindness.

We wanted our youth to have same opportunity to participate in improving their own lives and communities. We have done this through two mentoring programs. The first is Arches, a city Department of Probation sponsored program in which older men with a criminal justice history mentor older teens and young men on probation. The overall outcomes for Arches are evidently the best that have ever been seen in the field of juvenile justice. The re-arrest rate of young men in this

program plunges by 69% within 12 months of their being in the program. Very important to the concern of the Juvenile Justice Committee, the greatest impact was among 16 and 17 year olds. There is no question many could be released from state facilities to an intensive and proven mentoring program and go forward to productive lives.

The program basically consists of twice weekly group meetings---and of the mentors also consistently providing one-on-one guidance. Detailed evaluation has concluded that this program works so well because of the mentors---having overcome their own problems, they are credible to the youth---and they are remarkable determined, knowing themselves that people can overcome a difficult past, to see that the youth in their care have the opportunity to also do that. Of Health People's 48 Arches participants in the past year, 30 were successfully referred to jobs and 13 went back to school.

Health People's other mentoring is Kids-Helping-Kids a program originally started for youth whose parents had AIDS or had died---and which today continue to focus on kids with missing and sick parents. In Kids-Helping-Kids, older teens facing these challenging situations mentor younger kids with the same challenges. The outcome are astounding. Most of these youth stay in school---the majority actually go to college, typically becoming the first member of their family to do so. This is why we believe in mentoring---but mentoring with a special mission that enables these really impressive outcomes. That mission, clearly, is to enable community members to take the lead in mentoring.

We want to especially thank the Department of Probation for their own recognition that the right way was to have community groups run Arches programs---not a central bureaucracy. It was the first time the Department had contracted this way for community programs---and look how great it turned out.

We hope the Juvenile Justice Committee will encourage other agencies---and city funding overall---to be used in this proven, productive model for mentoring.



JUSTICE FROM COURTROOM TO COMMUNITY

**Written Comments of Luis Padilla, Youth Speakers' Institute
New York City Council
Committee on Justice System and
Committee on Juvenile Justice
Oversight: NYC's Preparedness to Raise the Age
April 18, 2018**

Good afternoon, everyone, My Name is Luis, and I am a Youth Leader with the Youth Speakers' Institute. First off, I'll like to thank Chairperson Council Member King, for hosting this oversight hearing and for the chance to testify. Today, I'll focus my testimony on why the NYC Department of Corrections (DOC) Correctional Officers should not supervise children in ACS facilities. I'm going to focus on one specific reason based on my own experience: DOC Correctional Officers have militarized training, while Juvenile Facilities staff are trained to deescalate, and promote positive youth development.

NYC DOC Militarized Training

When I was 16 years old I spent several weeks in Rikers Island. I remember one time when an inmate flooded his cell by clogging up his toilet, a few correctional officers entered his cell with turtles (the Emergency Service Unit and the Rapid Response Team) – who are equipped with shields, tactical gear, batons, and pepper spray. The ESU and RRT units beat him in his cell and took him out like an animal by his feet and arms. I felt sad for him, and was scared for my own safety as well. It's sad to see a child whose mind is not even fully developed, and who is literally crying out for attention get beaten and dragged out his cell, by adult men. Where's the youth development training in that?

I was scared at Rikers because I knew I could easily get misunderstood, and beaten by the correctional officers with no way to hold them accountable. Furthermore, whenever there were fights correctional officers would call the turtles and the turtles would beat kids with their shields and sticks to stop the fight, and to subdue the rest of the housing unit. After that, the kids fighting would be sent to the box – solitary confinement.

Now, in Juvenile Detention centers fights are addressed completely different.

Juvenile Detention Centers – Youth Development Training

When there was a fight in Crossroad we would get restrained, but not with shields and batons. Also, after a fight we were not sent to solitary confinement. We were sent to speak with counselors who were trained youth professionals, and who cared to understand what was going on with us, and why we were acting that way.

While in Horizon I was in many fights and I was always counseled. During that period, no one was visiting me; no one was there for me -- but my counselor. My counselor understood that I was acting out because I was seeking attention, and that my mind could not grasp all of my family dynamics at the moment. She provided me with coping techniques, and ways to address some of my anxiety.

Conclusion

Rikers was like a hell with no way out. I got lucky, but others suffered abuses and scars that they will never be able to recover from. We cannot have our kids in juvenile facilities open to this kind of abuse; the militarized training of the DOC will just create a new Rikers in Horizons. We need fresh staff trained to deescalate, and promote positive youth development.



JUSTICE FROM COURTROOM TO COMMUNITY

**Written Comments of Idris Groves, Youth Speakers' Institute
New York City Council
Committee on Justice System and
Committee on Juvenile Justice
Oversight: NYC's Preparedness to Raise the Age
April 18, 2018**

Good afternoon, everyone, My Name is Idris, and I am a Youth Leader with the Youth Represent Youth Speakers' Institute, and a mentor with Exodus. I'll like to thank Chairperson Council Member Lancman and Chairperson Council Member King for hosting this oversight hearing and for the chance to testify. My testimony will focus on why New York City must ensure the removal all 16 and 17 year olds from Rikers Island by October, and I'll provide examples of what alternatives to incarceration can look like.

Inhumane treatment imposed on Youth

Not too long ago I was incarcerated as a young adult. That was one of my worst experiences. The violence in the facility was hard to endure but what made the experience even worse, was how correctional officers treated me and others detained in the facility. On various occasions Correctional Officers refused to let people receive medical attention. One instance that will remain with me is when an elderly guy was requesting medical attention for almost the entire day, correctional officers from different shifts continuously denied him medical attention, and eventually he began vomiting and having a seizure. That experience, and many like them showed me that the Correctional officers did not care for anyone detained in their

custody. Due to the inhumane treatment youth receive in these adult facilities, and the culture of violence, these youth need to be removed from Rikers ASAP.

Non-confinement Alternatives

Along with removing all the 16 and 17 year olds out of Rikers Island, New York City needs to make more use of non-confinement alternatives. When I was 15 years old, I was arrested on felony charges, in Long Island. Instead of automatically holding me in a secured detention facility, the judge spoke with me and my mom, ordered me to probation and released me back to my mom's custody. Eventually I was sentenced to one year of community service in a pet shelter. Picking up poop, taking care of the pets, and giving people a tour of the pet shelter, helped me grow in the various aspects that incarceration usually strips from a young person.

Conclusion

Long story short, there are so many ways to hold young people accountable, and cultivate their growth. **Incarceration is not one of them**, so New York City needs to remove all 16 and 17 year olds out of Rikers Island, and start utilizing more alternative to incarceration initiatives.



JUSTICE FROM COURTROOM TO COMMUNITY

**Written Comments of Tianesha Drayton, Youth Speakers' Institute
New York City Council
Committee on Justice System and
Committee on Juvenile Justice
Oversight: NYC's Preparedness to Raise the Age
April 18, 2018**

Good afternoon my name is Tianesha Drayton, and I am 23. Thank you Chairperson Lancman, Chairperson King, the Justice Systems committee and the Juvenile Justice committee, for the opportunity to testify. I am an alumni of exalt, and a recent Youth Represent Youth Speakers' Institute graduate. I'm currently attending Medgar Evers College as a full time student. And I am also the mother of a 5 year old son who takes great joy in keeping me on my toes. My testimony today will focus on why 16 and 17 year olds need to be supervised by staff with youth training, not Rikers Island correctional officers.

Juvenile Justice Experience

At the age of 14, I was charged with a felony. I spent about 6 months between Horizons and Crossroads, and then was sent upstate to a non-secured residential facility for about a year and a half. I have experienced firsthand the difference of how having consideration towards a youth placement, can prevent detrimental impacts on a youths' life.

Judge Calabrese was willing to consider me as an individual, and not just according to what my charges were. Due to my charge, corporation counsel wanted me to go to Tryon Boys and Girls

Center, A "*Secured-Facility*", that has since closed because of its horrifying reputation of brutality and violence.

Judge Alex Calabrese of Red Hook Community Justice Center made a diligent effort to place me somewhere he believed I would grow academically, mature emotionally, and be prepared to successfully reintegrate into society with a sense of hope and purpose.

Even though I was in placement, I had the opportunity to meet with a counselor regularly who helped me address my temper, I was able to focus on my education, hear a variety of music, and had access to tons of books. This all helped alter my experience, compared to youth detained at Rikers Island.

Conclusion

Since then, I've wondered how much of a difference we would see in our youth who are court involved, if they were placed in Youth centered facilities, with staff trained in youth development. For this reason, NYC must make sure they remove all 16 and 17 year olds from Rikers Island by October 2018, and ensure that correctional officers from Rikers Island do not supervise youth in juvenile facilities.

In addition to a shift in those responsible for overseeing the futures of our youth who get into some trouble, I also know there's a sting of hopelessness that follows a young person who knows that their arrest records are accessible to the public.

The stigma that comes along with court involvement leaves a residue of negativity. Because of this, our Judges must allow as many young people to go into the Family Court system.

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
April 18, 2018

Good Afternoon:

My name is Anthony Wells and as President of Social Service Employees Union Local 371, I represent 19,000 members, that include: Juvenile Counselors, Caseworkers and Institutional Aides employed by the New York City Administration of Children's Services (ACS) juvenile detention facilities, as well as DOC titles assigned to Rikers Island.

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. The bill is a first step toward needed criminal justice reform and a commitment to the rehabilitation of adolescent offenders. Our more than 19,000 members stand with you.

I wish to express concerns on behalf of our members that the timeline to transfer the 16 and 17-year-olds from Rikers Island by October 1st, 2018 is unrealistic. Implementation of *Raise the Age* requires careful and detailed planning if we are to maintain the safety of these children and the staff who will be supporting and transferring them from Rikers Island to the age-appropriate facilities.

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First and foremost, we want to assure you that we fully support *Raise the Age* and the decriminalization of our youth population. Our youth deserve a fighting chance for a better life during their most vulnerable years. New York State's *Raise the Age* law assures they get that chance. However, we are concerned that despite the City and State's best efforts, they are not prepared to implement the first phase of the legislation, which will be to move 16 and 17-year-olds out of Rikers Island on October 1st. We want to work with the City and the State to make sure that we have the ability & means to meet the needs of *Raise the Age* children.

We are concerned that appropriate steps have not been taken to handle the influx of 16 and 17-year-olds currently awaiting transfer. The need for new age-appropriate facilities to be retrofitted and updated to facilitate this population of youth cannot be emphasized enough. The City has created a new title, Youth Development Counselor and discussions have begun around its establishment. However, issues of recruitment, salary, training and security have yet to be determined. Appropriate training for the new title will take months, at a minimum. October 1st is quickly approaching and more time is needed. The deadline should be extended to six months.

Without proper preparation and planning, the safety of our youth and staff will be jeopardized. We are eager to work with the city to transfer the youth off of Riker's Island and into the new age-appropriate facilities and believe we can help ensure the success of *Raise the Age* implementation. We urge the City & State to engage in full and frank discussions with our union at the earliest possible time, so that there can be a maximum level of cooperation between us.

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



UNITED PROBATION OFFICERS ASSOCIATION

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TESTIMONY OF
DALVANIE POWELL
PRESIDENT
UNITED PROBATION OFFICERS ASSOCIATION

NEW YORK CITY COUNCIL
JUVENILE JUSTICE
AND
JUSTICE SYSTEM
COMMITTEES
APRIL 18, 2018

Good afternoon.

My name is Dalvanie K. Powell, President of the United Probation Officers Association, which I will refer to as the UPOA. I represent more than 700 Probation Officers and Supervising Probation Officers employed by the NYC Department of Probation and more than 400 retirees. I want to thank this Committee for permitting me to testify regarding the Oversight of NYC's Preparedness to Raise the Age.

As I am sure you are aware the Governor's Commission on Youth, Public Safety and Justice has recommended raising the minimum age of delinquency from seven (7) to twelve (12) years of age and to raise the maximum age from sixteen (16) to eighteen (18). This Commission also recommended the creation of a Youth Court of the Supreme Court in each County of the State. These changes will result in additional clients in the new delinquency ages group to access resources in the Family Court. These resources include Probation Services such as Intake Diversion, Risk and Needs Assessment, Investigation, and Probation Supervision.

I come here today to address these committees to speak of the impact these changes will have on the NYC Department of Probation and my members.

Let me begin by stating that the qualifications to become a NYC Probation Officers, in part, requires a Graduate Degree in certain disciplines such as social work, education, law, as well as other disciplines, or a Bachelor Degree with two (2) years of experience in casework or counseling in a recognized social work/counseling or related field.

Part of our duties and responsibilities encompasses balancing the scales of justice by enforcing court orders, providing services and guidance to clients who have been convicted of a criminal offense. In addition to supervision, the Probation Department is also responsible for conducting investigations for Family Court and various Criminal Courts. Aside from assisting the courts in making the most appropriate dispositions, presentence/predisposition investigations we also

address the concerns of the victims. You should know that community safety is our primary concern.

The NYC Probation Department and my members will be responsible for conducting most if not all of the aforementioned services. For instance the "Pre-Trial Service" would be additional duties for existing staff. I am informed the Probation Department is preparing to hire and train additional staff to be able to provide the above mentioned services. This will take time in order to comply with Civil Service Law. Additional staff is required to ensure that the caseloads will be maintained at a reasonable and manageable level and not compromise public safety. In order to perform our current and new duties and responsibilities we will need more office space, in part, for current and additional staff, equipment such as computers, vehicles, etc. to provide these services as well as to document who receives these services and what services and when the services are provided.

While the NYC Department of Probation is preparing to implement changes to effectuate the services that will be needed we must ensure that the additional youths that will now need our services are maintained in safe environments and will get the services they need to be successful in changing their lives.

To that end I would asked these committees to consider the following preliminary recommendations I received from my members who have the experience of working with these clients:

1. Implement a program that has worked in other places that has had a positive effect on youthful clients such as attendance in groups so they can express themselves, do self- examination and hold each other accountable for their actions. This will help these young clients think through their conduct resulting in making better life choices. My members will be able to interact with these clients in a setting other than a Probation office one on one setting.
2. In order to be successful we recommend, in addition to hiring new Probation Officers and providing office space and equipment, as indicated before, different units need expansion, especially Day and Evening intake units and weekend arraignment units. This will expedite moving these young clients through the criminal justice system and reunite them with their families sooner rather than later.
3. Electronic Monitoring Option. Right now when preparing our investigation reports we have to recommend either jail or probation. Since these clients have curfews we believe a third option of electronic monitoring is viable and a cost savings. Electronic monitoring is less expensive than incarceration. Of course when recommending this option we would have to consider other related factors regarding the

1. client. I am informed that electronic monitoring has reduced recidivism at the Federal and State levels, that the client movements are monitored in real time, that they can remain with their families and remain in their community building positive relationships, receive services, pursue education and sustain or prepare for employment.
2. Implement "EM" (Electronic Monitoring) and continue "ICM" (Intense Community Monitoring) which would closely monitor our clients who would have otherwise remained in placement or incarceration while awaiting disposition. When there is a victim the "EM" will act as a deterrent for the client to comply with an order of protection and it can also in real time help determine if an order of protection is violated or if a new arrest occurs electronic monitoring could help corroborate alibis.
3. Our clients are in need of education. We meet our clients that have not completed enough credits to graduate or go on to the next grade. These clients become frustrated and drop out of school and make bad life choices. Through my members experience we believe it is imperative to encourage education and completion of high school and hopefully set these clients on a path to college or learn a trade that will make them a viable member of the community.

In conclusion we have no choice but to be successful. My members, Probation Officers and Supervising Probation Officers are not only the agents of change but will plant the seeds in which to nurture our clients to be a positive part of our community as evidence by the work we do. When this new program is implemented we will need the tools to make it successful, we believe recidivism will be reduced and our clients will be given better life choices.

The UPOA and our members stand ready to do our part and be helpful in this endeavor. In the event this committee needs additional information please do not hesitate to contact me.

Thank you for this opportunity.

I stand ready to respond to questions the committee members might have.



Testimony of

FOR THE RECORD

Gisele Castro
Executive Director

Before the
New York City Council
Committee on Juvenile Justice

April 18, 2018

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

Chair Andy King, and Council Members 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*), a 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 King and Council Members for their advocacy and collaborative work in preparing for implementing the initial requirements of Raise the Age legislation by October 1, 2018. I have been following the implementations plans for this new law, and have testified on several occasions regarding issues concerning youth impacted by the justice system.

Today, I would like to focus on ensuring the safety of our youth who will be transitioning out of Rikers Island and for those who will remain in youth detention facilities.

Ensuring the Safety of our Youth and our Communities

The implementation of the Raise the Age law is so important and critical in creating a transformative system to end debilitating practices that harm our youth.

As the Executive Director at *exalt*, I represent youth who have been impacted by the system, and our organization and myself oppose to having DOC correctional officers monitor youth in Juvenile Detentions. We understand the challenges that come with new legislation, as well as the immense work that must be done in effectively implementing priorities and plans. However, these challenges must not prevent efforts in channeling a comprehensive approach to end violent, inhumane and unjust practices in the juvenile justice system.

I ask that the City reconsider the plan to use Correction Officers from Rikers Island and other adult jails employed by the Department of Correction, to supervise 16 and 17. We know that the first priority to any legislation affecting our young people must come with appropriate investments, and to effectively implement this new law we ask for funding to become available to hire and train appropriate staffing to supervise youth in specialized juvenile detentions. A critical aspect for raising the age of criminal responsibility is to create age appropriate responses to youth in the system. It is important that we start by creating safe environments throughout the experience of a young person in custody as well as having appropriate methods of transferring individuals out of the system upon release to prevent further system-involvement.

Intersectional Interventions

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 we help to make a difference in creating a more just society.

I want to once again thank Chair 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, and provide our youth with opportunities to flourish in life.

Respectfully submitted,



Gisele Castro
Executive Director

Raise the Age - City Council Testimony – Sarah Tirgary, Esq.
Assigned Counsel – 18-b
President of the Assigned Counsel Association of Queens Family Court

4/18/18

The 18-b panels in Queens, Brooklyn, Manhattan, Staten Island and the Bronx consist of attorneys who are certified by the First and Second Department to handle all cases in Family Court, including representation of children in the context of child protective, custody, visitation, family offense, support and of course Juvenile Delinquency proceedings.

The panel in Queens has been actively preparing for the RTA implementation. We have been active on the RTA advisory committees, and as such have been kept apprised of the implementation issues, concerns and proposals. The panel, along with the Legal Aid Society, Mayor's office, DA's office, Corp Counsel's office, NYPD, Probation, NYC corrections and court personnel have expressed our respective concerns and have bounced ideas off of one another. The most recent meeting involved a presentation by the Vera Institute of Criminal Justice where we shared ideas and concerns. Implementation is our primary concern and the panel has already made some major strides to make sure we are ready. Our goal is to be able to guarantee complete coverage of children in both Criminal and Family Courts, as well as guaranteeing continuity in representation.

In preparation for the October 18th deadline, the panel has been preparing to dedicate as many attorneys necessary to ensure that all delinquency cases are handled. Between Legal Aid and the 18-b panel, we are confident that you will not see one child unrepresented. We are prepared to have at least one full time attorney sitting in criminal court, and more on standby so that if there are three or more in concert, an additional 18-b attorney can be sent over. Family Court and Criminal Court are only 30 minutes away by train. Dispatching an attorney with a 30-minute wait will therefore not negatively impact the calendar.

The panel in furtherance of being prepared for October has already taken the following steps:

- 1- We are interviewing additional applicants to the panel so that we have at least 5 primaries on intake every day in QFC. This will allow us to dedicated qualified attorneys to Criminal Court so that they can stay in criminal court to cover arraignments in the Youth Part. We already have identified over 15 attorneys currently on the panel who have either worked for the DA's office, Corp Counsel's office, or have been on the Criminal Court 18-b panel. Many of our attorneys have even taken steps to reactivate their criminal court 18-b panel certification so that on days when things are slow, they can be more productive in helping out in other ways.
- 2- Our attorneys recognize the need for one attorney to be assigned to a child and remain on that case from beginning to end. We understand that changing attorneys can be traumatic to a child in and of itself, leaving room for error and misinformation. Therefore, we are working hard to ensure that whatever attorney picks up a child on intake in the youth part, keeps that case until disposition.
- 3- We are asking attorneys with strong criminal law backgrounds to reactivate or activate their certification to the criminal panel. When the criminal panel was essentially disbanded, we saw a large influx of highly qualified attorneys apply to the QFC panel. Those attorneys are currently on the panel in Queens Family Court and are excited about the anticipated influx of delinquency cases in both Criminal Court and Family Court.
- 4- We have implemented CLE classes to help our already qualified attorneys brush up on their knowledge of delinquency practice. Each month leading up to October of 2018, the panel will be presenting monthly training classes. May 9th is our third CLE offered by and paid for through the ACAQFC. Last month Judge Mendelson spoke at our CLE on the topic of RTA implementation. Prior to that we attended a mandatory CLE training presented by the 2nd department on the issue of delinquency practice.

It has been brought to our attention that an RFP has been issued by the State seeking out bids from institutional providers to provide legal representation of juveniles in both criminal and family courts. We the 18-b panel feel that this is a huge mistake.

Without knowing what kind of caseload increase we are looking at, contracting with an IP is a huge financial commitment that can easily be avoided by simply entrusting the panel to take on the additional cases.

Let me tell you why our attorneys are the BEST attorneys available to represent children in delinquency proceedings:

- 1- Our attorneys are in and of themselves institutional providers. You do not have to worry about a conflict of interest in multiple respondent cases.
- 2- You are guaranteed accountability when it comes to the quality of legal representation. Our attorneys on the panel are THE ONLY attorneys in the courthouse who are evaluated by the jurists ANNUALLY for their professionalism and expertise.
- 3- Our attorneys are highly qualified, many of which have gone on to becoming jurists themselves. Case in point is Judge Kusakabe, Judge Fasanya, Judge Shim, Judge Piccirillo, Judge Friedowitzer, Judge Edwina Mendelson, Referee McGrady, and so many more. That was just for Queens alone. Imagine a staff of private practitioners who have qualifications equivalent to that of a supervisor of an IP? That's what you get when you have an 18-b attorney assigned to a litigant.
- 4- In the same vein, our attorneys are exceptional and possess the qualifications and experience which are comparable and in some cases exceed the qualifications of agency supervising attorneys and Institutional Provider supervisors. Case in point again – some if not most of our attorneys are former support magistrates, referees, supervising attorneys at the legal aid society, Assistant District Attorneys, Corporation Council Attorneys and

former supervising attorneys from ACS. While many of our attorneys are capable of having successful private practices without being on the panel, many do so because they are passionate about their work. Speaking for myself, a former supervising attorney at ACS, former attorney from the NYC Commission on Human Right and former attorney working for the NYC Civilian Complaint Review Board, I would like to believe it is our compassion for the residents of NYC, our love of law and the concern for families within NYC that draws us to the panel.

- 5- Sitting on the Bar Panel Review committee at the Queens County Bar Association, I have the unique pleasure of reviewing potential candidates for the Queens 18-b panel. Of the 3 applicants that were reviewed at our last session a month ago, I can tell you that only 1 was recommended. We have very high expectations and do not allow just anyone to become certified to sit on the panel. We only take the best applicants. Of those applicants, we have a mentoring program in place that trains attorneys in areas that require further training.
- 6- After the Bar panel's review process, the applicant must pass the muster of the Law Guardian Director's review. That interview consists of a barrage of questions designed to test the attorney's ability to respond to complex legal arguments. If it is believed that an attorney needs further training in a particular area, we have a mentoring program in place. Once on the panel, our attorneys routinely share template motions, orders and knowledge with one another. It is a very supportive environment.
- 7- Our attorneys are the best deal in town. While IP's require a budget to pay for their rent, their phone bills, their phones, their support staff, their electricity, their computers and office supplies, their attorney salaries, benefits, parenting advocates, social workers, psychologists, and everything else necessary to practice law. 18-b's absorb all of those expenses at the flat rate of \$75 per hour, the same amount of money that social workers now get paid. There is no denying that 18-b attorneys are the best deal in town.

8- Attorney accountability exists for 18-b attorneys just as it does for any agency or institutional provider. The Citizens of NYC get their own private attorney and know that that attorney is held accountable not only to the jurists they appear before, but also to the client who could easily file grievance against that attorney. In addition, any complaint could result in the relevant department revoking a panel attorney's certification.

To sum up, we the Assigned Counsel Panel will continue to work with you and the RTA team to ensure that implementation of the RTA legislature goes smoothly with few bumps. Taking on an IP means you will be committing to a contract not only for legal representation, but of their rent, their benefits, their support staff, their paper clips, their staplers, their copy paper, their days off including vacation time and sick time. 18-b's absorb all of these cost and are by far way more experienced and accountable. We urge you to wait and see how many cases we are seeing filed in Criminal and Family Court. We urge you all to give the panel a chance to implement from our end whatever changes are necessary before taking the step of contracting with yet another IP to represent the residents of NYC. Our children deserve the best resources available in order to avoid remand. Our attorneys can provide the best representation with the highest level of accountability. To spend the money to contract with an IP would not only do the children of NYC an injustice, but also the tax payers who would be financing another IP.

Thank you for your time.

Sarah Ann Tirgary, Esq.
President
Assigned Counsel of Queens Family Court
155-03 Jamaica Avenue
Jamaica, NY 11432

Statement by panel attorney Ronna-Gordon-Galchus – Criminal and Family Court

18-b panel

4/18/18 testimony

My name is Ronna Gordon-Galchus and I am here to give a brief statement on behalf of the Assigned Counsel Plan of Queens Family Court, and our ability and strength to represent youths when Raise the Age goes into effect in October 2018. Our panel of attorneys currently represents children in delinquency cases. Whether handling misdemeanors, felonies or designated felonies, our attorneys are thoroughly knowledgeable about Article 3 of the Family Court Act, the law which governs juvenile delinquency procedure. Many of our attorneys, including myself, also practice in adult Criminal Court, so we are also knowledgeable about the Criminal Procedure Law and its similarities and distinctions with the Family Court Act. Prior to joining the Family Court Panel, I was an attorney on the Felony Panel of the Assigned Counsel Plan in Criminal Court as well as the Criminal Appeals Panel. It is the intention for some of our attorneys to reactive their status with the Assigned Counsel Plan of Criminal Court, which is now open and accepting applications.

Our attorneys are in the unique position to have this cross training. Once Raise the Age is implemented, all misdemeanors with the exception of Vehicle and

Traffic Law will be litigated in Family Court. We are ready to take on any additional cases which will be brought in by Raise the Age. It's expected that many of these low level offenses will be adjusted by Department of Probation, so many of these cases may never even require the assistance of counsel. All non-violent felony cases will start off in the designated youth part in adult Criminal Court, with the expectation that they will be transferred in Family Court, unless the District Attorney can show "extraordinary circumstances." Once again, we will be able to have an attorney appear in the youth part as an "anchor," who will represent the client and continue representing the client once the case gets sent to Family Court. This will allow for continuous representation and give our clients the sense of security that the same attorney will stay with them from arraignment until the conclusion of the case. Attorneys in Family Court will be able to advise their clients on the many therapeutic and preventive services which are available to youths, and those which offer an alternative to removal from their homes.

I recently wrote an article which was published in the Queens Bar Bulletin, the newspaper of the Queens County Bar Association, which outlines and analyzes the new law. That article is made part of this summary. We will continue to have CLE training on Raise The Age and offer seminars in Delinquency/Criminal Law and the new Article 722 of the Criminal Procedure Law. The goal is to offer our

clients services which will reduce the rate of rearrests, while vigorously advocating and protecting their constitutional rights.

Raise The Age

By Ronna Gordon-Galchus, Esq.



On October 1, 2018, Raise the Age will go into effect in New York State and will be fully implemented by October 1, 2019. This means that 16 and 17 year olds will no longer be prosecuted in adult criminal courts. Rather, their cases will be transferred to Family Court or the designated youth part in adult criminal court.

New Article 722 of the Criminal Procedure Law, which will become effective October 1, 2018, governs these proceedings against juvenile and adolescent offenders. All misdemeanors cases, except vehicle and traffic offenses, will be prosecuted in Family Court. All non-violent felonies will start out in the youth part in adult criminal court, but will be transferred to Family Court unless the District Attorney files a motion within 30 days showing "extraordinary circumstances" for the matter to remain in the youth court. Some violent felonies can also be transferred to Family Court, but ineligible are such offenses where a dangerous weapon is alleged to be displayed, significant physical has resulted, or unlawful sexual conduct as defined in Penal Law §130, has occurred, unless the District Attorney consents to the removal. In some instances, even if the district attorney consents to the removal of certain violent felonies, removal can only occur if the Court finds certain factors such as the defendant's minor participation (see CPL §722.21(5)). Remaining violent felonies can also be transferred to Family Court, unless the District Attorney can show

"extraordinary circumstances" for the matters to remain in the youth part.

With the exception of North Carolina, New York had been the only state to prosecute 16 year olds in the adult system. Teenagers far and large do not have the maturation or same brain development as adults. In fact, scientific research indicates that the brain does not fully develop until 25 years of age. In adolescents, the back of the brain, the amygdala, develops first. This is the part of the brain which controls emotions. However, the front of the brain, the prefrontal cortex, is the part of the brain which controls reasoning and judgment, and does not typically develop until 25 years of age. As can be seen, what seems to be a common notion that teens do not have the same maturity and reasoning skills as adults, is backed by scientific research. Impulsivity control is often lacking in teens, and thus to treat youths in the adult criminal justice system is contrary to scientific findings and not in their best interest. In the landmark US Supreme Court case of *Roper v. Simmons*, 543 U.S. 551 (2005), the United States Supreme Court held that it was cruel and unusual punishment to execute individuals under the age of 18. Writing for the majority, Justice Kennedy discussed how youths lack the maturity and impulsivity control as adults do and cited various sociological and scientific support. *Roper* at 569-70.

With the implementation of Raise the Age, youths will be able to benefit from the in-depth therapeutic intervention which Family Court is more apt to provide. Cases which might typically result in a disposition out of arraignments in Criminal Court will now take on a new approach in Family Court. Now, a charge such as Petit Larceny or Possession of Stolen Property might often get resolved with an adjournment in contemplation of dismissal at arraignment in Criminal Court. This will no longer happen under the new law. Such a case will be transferred to Family Court, where it might be adjusted by the Department of Probation, and the youths would be required to participate in services and counseling. Under these circumstances, the case is never put in front of a Family Court judge. No petition is filed.

Even if these cases were prosecuted and sent to a judge, counseling, probation and various therapeutic services could be a likely disposition. Although the matter may not be treated as quickly as it could in Criminal Court, and an argument can be made that these defendants, now turned respondents in Family Court, will now be put under the microscope, the goal is to ultimately benefit youths, redirect them, and reduce rearrests.

Raise the Age is about alternatives and how treating youths away from the adult system is an appropriate and successful approach. Statistics have shown that youths who are prosecuted in the adult system are "34% more likely to be re-arrested for violent and other crimes than youth(s) retained in the youth justice system." Similarly, non-violent felony cases and some violent felony matters will also be heard in Family Court, where youths could likely be offered services to assist them. This ultimately reduces the rate of recidivism. Raise the Age, in separating youths from the adult system, will focus on their needs. Even those cases which remain in adult court will be heard in a special designated youth part which is overseen by a Family Court judge. See CPL §722.10(1). These youths will be referred to as "adolescent offenders."

Parental involvement is also a part of this legislation and parents must be notified when their children are arrested. By October 1, 2018, Rikers Island will no longer house any youths under the age of 18. Adolescents are not adults and New York has finally recognized this distinction. Raise the Age responds to the need to provide teens with services in an environment which is best suited to offer assistance and address their needs.

Starting October 1, 2018 Raise the age will go into effect for 16 year olds. Seventeen year olds will come under the law on October 1, 2019. Raise the Age will take some time until its implementation evolves. Judges, lawyers, police and all those working in the criminal justice system will have to be trained in these cases. Such issues as bail will have a new interpretation, since CPL §722.23 (1)(f) states that "there shall be a presumption against custody and case planning services shall be made available to the defendant." Those cases which appear in court when the designated youth part is not in session will be heard by an "accessible magistrate" who has special training in juvenile justice and other youth and adolescent matters. See CPL §722.10(2).

Raise the Age will certainly be a new learning experience for everyone. However, the goal to treat adolescents with appropriate intervention, and away from adult court will ultimately be a positive outcome for youths and the community. "Childhood is a journey, not a race." New York has now recognized that older adolescents charged with crimes should not be treated as adults. Raise The Age offers a response to adolescent crime which is developmentally fitting.

i. North Carolina has now enacted the Juvenile Justice Reinvestment Act, and beginning December 1, 2019 most 16 and 17 year olds will be prosecuted in Juvenile Court.

ii. American Academy of Child & Adolescent Psychiatry, No.95, September 2016; <https://www.urmc.rochester.edu/encyclopedia/content.aspx?ContentTypeID=1&ContentID=3051>.

iii. RaiseTheAgeNY.com.

iiii. Author unknown.

City Council Testimony

April 18, 2018

Julie Peterson, Senior Program Officer, The Pinkerton Foundation

The New York State Legislature took an important step toward criminal justice reform when it raised the age of criminal jurisdiction from age 16 to age 18 and mandated the transfer of all 16 and 17-year olds off Rikers Island by October 2018. Now, New York City is about to make a disastrous turn backward by insisting that staff from the very same Department of Corrections be placed in the juvenile facilities -- run by the Administration for Children's Services -- where the City plans to send the 16 and 17 year old young men and women who are currently incarcerated on Rikers Island.

Juveniles have no place on Rikers Island because its environment is toxic, dangerous and sometimes deadly. The Department of Corrections has been under Federal Court supervision for decades because the conditions of confinement are dangerous. The latest report to the Court by the Special monitor found that abuse and violence continue despite the Department's efforts to curb it.

I have been visiting the jails on Riker's Island since 1992. I have seen staff shouting obscenities at young people. I have heard DOC staff referring to young people as "bodies." At lunch time guards spoke about "taking the bodies to feed." This is not an environment or culture appropriate for any human being, and especially not for children. Worse yet, there is an underground criminal system operating at Rikers called "The Program," where some DOC officers act as enforcers. As the young people tell it, the Program's terror has inflicted lasting damage on their bodies and minds, scars that have stayed with them for years and decades.

Placing DOC staff at ACS facilities risks immediate harm to young people. It also risks infecting ACS facilities with the poisonous culture at Rikers. Beyond that, placing both ACS and DOC staff at the facilities creates a perfect storm where neither agency has to take full responsibility for the well-being and safety of our young people.

New York City must meet the October deadline to get kids off Rikers. There can be no excuse for missing this deadline. Furthermore, using DOC staff to supervise youth in juvenile detention is not an acceptable way to meet this deadline.

Children ages 16 and 17 years old were not ordered off Rikers Island because the food is bad, or the paint is peeling. They were ordered off the Island because the culture of brutality is harming them every day.

While ACS facilities are far from perfect, the culture of the ACS facilities is intended to be one of care and support, focused on the best interest of children. All of us would want this for our own children. The City must fully fund the implementation of Raise the Age and Close to Home, so all children can thrive.



**New York City Council, Committee on Justice System and Committee on Juvenile Justice,
Hearing on New York City's Preparedness to Raise the Age
April 18, 2018**

**Written Testimony of The Bronx Defenders,
By Robyn Goldberg**

My name is Robyn Goldberg. I am a Staff Attorney with the Adolescent Defense Project at The Bronx Defenders. Thank you for the opportunity to testify today.

The Bronx Defenders provides innovative, holistic, client-centered criminal defense, family defense, immigration representation, civil legal services, social work support, and other advocacy to indigent people of the Bronx. Our staff of over 300 represents approximately 30,000 individuals each year. And in the Bronx and beyond, The Bronx Defenders promotes criminal justice reform to dismantle the culture of mass incarceration.

The Bronx Defenders Adolescent Defense Project

The Adolescent Defense Project (ADP) was launched in 2012 to provide specialized representation to The Bronx Defenders' most vulnerable clients: 14-, 15- and 16-year-olds who are being prosecuted as adults. Our young clients prosecuted as adults face unique challenges, including homelessness, family instability, mental health issues, drug addiction, and lack of appropriate educational services. They are often barred from accessing the aid available to

older clients because many public and private agencies restrict eligibility to adults. The Adolescent Defense Project is dedicated to creating and finding solutions tailored to each client's needs.

Sixteen- and 17-year-olds are children. That is why the law does not permit them to smoke, drink alcohol, or make enforceable contracts. Last year, the State Legislature passed Raise the Age, recognizing--finally--that 16- and 17-year-olds are, in fact, children in the criminal justice arena. But if we are truly committed to treating our City's teens as children, Raise the Age is not enough. We welcome the opportunity to speak today about four additional actions necessary to implement Raise the Age in a way that truly benefits our City's teens.

Remove Teens from Rikers Island

We call on the City Council to move incarcerated teens to ACS-run juvenile facilities as soon as possible, and at the very latest by the statutory deadline of October 1, 2018. Raise the Age mandates the removal of all teens under 18 from Rikers Island by October 1, 2018. It also mandates the removal of all teens under 18 from Rikers Island "to the extent practicable" by April 1, 2018. Even though April 1, 2018 has passed, the City still incarcerates approximately 135 16- and 17-year-olds on Rikers Island.¹ What may seem like a harmless or small delay to a city agency is an eternity to a child isolated on a notoriously brutal island jail which former Chief Judge Jonathan Lippman has deemed beyond repair or redemption.² The six months between

¹ Letter from Commissioner Cynthia Brann, New York City Department of Correction, to Chairman Thomas A. Beilein, New York State Commission on Correction, March 2, 2018.

² Jonathan Lippman and Melissa Mark-Viverito, Closing Rikers Island is a Moral Imperative, The New York Times, March 31, 2017, available at <https://www.nytimes.com/2017/03/31/opinion/closing-rikers-island-is-a-moral-imperative.html>.

now and October 1, 2018 is too long for a 16- or 17-year-old *child* to wait to be moved to a facility run by the Administration for *Children's* Services.

Recently, the State Commission on Corrections added an extra level of urgency by ordering the City to cut maximum occupancy at the Robert N. Davoren Center (RNDC), the adolescent jail, by half due to malfunctioning locks on many cell doors.³ As a result, the State has ordered the Department of Corrections to move about 75% of the teens to jails with adult men.⁴ This move will endanger teens⁵ and strip them of their high school education and adolescent programming.⁶ Instead of keeping children in danger caused by malfunctioning cells or putting them in even greater danger by housing them with adults, the City should transfer these children to dedicated juvenile facilities.

Bar DOC Corrections Officers from Juvenile Facilities

A jail is not simply a building; it is a system of control. A jail is as much a culture as it is a structure; any building can be turned into a jail by the people who run it. We vehemently oppose the City's plan to employ NYC Department of Correction (DOC) officers at juvenile facilities. To this day, Rikers is monitored by the federal government as part of a settlement related to persistent and excessive violence by DOC officers. Even after two years of federal oversight, officers use excessive force with disturbing frequency. The independent federal

³ Letter from New York State Commission of Correction to Commissioner Cynthia Brann, New York City Department of Correction, February 28, 2018.

⁴ Letter from Commissioner Cynthia Brann, New York City Department of Correction, to Chairman Thomas A. Bellein, New York State Commission on Correction, March 2, 2018.

⁵ "More than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk of sexual abuse." National Prison Rape Elimination Commission Report (2009).

⁶ Letter from Commissioner Cynthia Brann, New York City Department of Correction, to Chairman Thomas A. Bellein, New York State Commission on Correction, March 2, 2018.

monitor has identified that “serious and problematic issues involving Staff use of force continue in unabated fashion” against 16- and 17-year-olds.⁷ “The Department has a deeply entrenched culture of managing troublesome and/or potentially dangerous inmates with an iron fist . . . 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.”⁸ DOC staff use of force against teens accounts for 16% of all such incidents on Rikers even though teens comprise only 3.5% of the inmate population.⁹

Despite Rikers’ ongoing problem with excessive force, DOC is doubling down--training its Emergency Services Unit officers to apply even more extreme measures. In 2016, DOC paid \$1.2 million dollars to contractor US Corrections Special Operations Groups (US C-SOG) for training in use of shotguns capable of firing rubber pellets or live ammunition.¹⁰ US C-SOG’s Facebook posts tell us everything we need to know about the attitude they have instilled in their trainees:

⁷ Fourth Report of the *Nunez* Independent Monitor, filed in *Nunez v. City of New York* at 8.

⁸ *Id.*

⁹ *Id.* at 30.

¹⁰ Michelle Mark, [One of the Biggest Jails in the US Hired a Special-Ops Contractor to Train its Guards--and it's Set Off a Debate on Prison Violence](http://www.businessinsider.com/rikers-island-hires-special-ops-contractor-2016-8), Business Insider, available at <http://www.businessinsider.com/rikers-island-hires-special-ops-contractor-2016-8>.



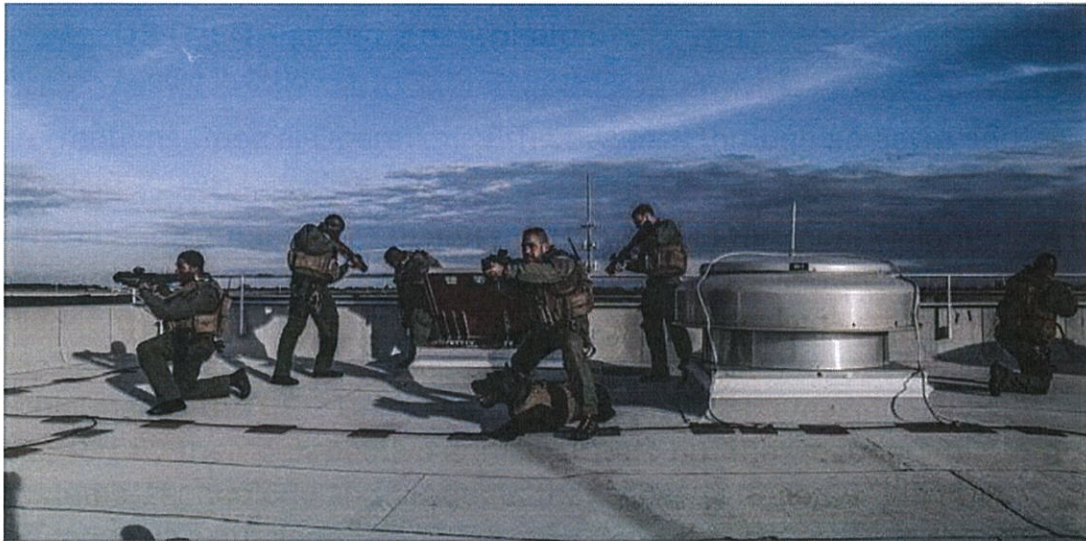
US C-SOG added 2 new photos.

August 2, 2016 · 🌐

Corrections Special Operations Effectiveness through an asymmetrical mindset

It is an undisputable fact that in the US we hold the most violent, most perverted, most volatile inmates that have ever walked the face of the planet. Our CSO Units train for every aspect of dealing with any type of facility internal inmate violence or external attack(s) on our facilities. What makes the CSO Units special is not just their amazing unit support by their perspective administrators but the weaponry platform systems, technology and products that allow us to do our job more effective and efficient.

Thank you to our team sponsors Kel-Tec, Vortex Optics, Military Hardware llc, Viper K9 - Professional Working Dog Gear, CORE Survival, Inc., COAST Products and so many others.



Militarized units belong on battlefields, not with children. If the City treats these teens as enemies, then teens may come to see themselves in that way. Instead of scaring, threatening, and forcing teens into obedience, the City should teach and guide teens. Currently, juvenile detention facilities strive to provide rehabilitation by hosting a variety of activities for their young inmates, including music, dance, and drama. The turning point for one of my 15-year-old clients was learning how to grow hot peppers in the garden at Horizon Juvenile Center. These are the opportunities the City should extend to the--hopefully few--16- and 17-year-olds who remain in custody. Bringing in officers from the Department of Corrections will bring a culture of fear, violence, and confrontation that will destroy all efforts at a therapeutic environment and transform the juvenile facilities into Rikers Island annexes.

Fund Vertical Representation: One Client, One Lawyer

Vertical representation means one client, one lawyer. It guarantees that a lawyer stays with a young client from the beginning of a case to the end. It means that changing buildings does not involve losing a confidante, counselor, and advocate. Beginning in October, many teens charged with felonies will begin their cases in Criminal Court, only to have those cases transferred to Family Court shortly thereafter. The charges are the same, the allegations are the same, the client is the same--and the lawyers should be the same. The City and State must immediately resolve the contractual issues in determining funding from the Criminal Court Youth Part to the Family Court.

Continuity of representation is important in every case. Currently, The Bronx Defenders provides continuous representation to all clients: the lawyer who represents a defendant at his

first appearance will represent that client all the way through trial or plea. The first few weeks of a case are among the most important. The first few weeks are when the client, often in court for the first time, is most confused and frightened. The first few weeks are also when evidence must be gathered before witnesses' memories fade and surveillance footage is erased.

Any time a case changes hands, knowledge is lost. The first lawyer can give his successor a DVD, but cannot give her the memory of a witness' body language. He cannot transfer the rapport he built with the client's family. And he cannot transfer the client's trust. The loss of any of these things hurts the case, hurts the attorney's ability to do her job and, most of all, hurts the client.

While continuity is important in any case, it is particularly important in cases involving adolescents. As an attorney who represents teens almost exclusively, my experience shows me that it takes time to build a relationship, and that no teen is going to tell me the intimate details of his life until that relationship is built. It is those details that I need to know; those private details are going to come up in his case and form his defense. If I tell someone that I am only going represent him for two weeks or a month, he is not going to be willing to put his trust in me. He is not going to be willing to admit that he is confused, lost, and frightened. He cannot trust me, even though I am the one person wholly on his side, because I am about to disappear. It would have the same practical effect as not giving this child a lawyer for the first month of the case.

At The Bronx Defenders, we are prepared to follow our clients and their cases from Supreme Court to Family Court, from start to finish. The Bronx Defenders has already created a specialized team in ADP, a group of attorneys and social workers dedicated to serving the unique

needs and personalities of teens. We take care of the whole teen, not just the criminal case. While we currently represent clients in criminal courts, ADP has already scheduled multiple training sessions on Family Court procedure that will take place over the spring and summer so that we will be prepared to advocate for our clients in whichever building they find themselves.

Provide Legal Representation During Adjustment

Adjustment is the process that occurs after a case has been approved to be transferred from Criminal Court to Family Court, but before the Petition is filed in Family Court. In this critical phase of the case, Probation determines whether the young person will be well-served by a diversionary program, or if it is necessary to proceed with a Family Court petition. Where appropriate, Probation diverts the teen into programming, requiring the teen to complete certain services or trainings. If the teen successfully completes the requirements, no case is filed. If the teen does not, then the Family Court prosecutor, or Corporation Counsel, files the case in Family Court where it proceeds to trial or plea.

We ask the City Council not only to allow defense attorneys at the adjustment stage, but to require their presence. The initial interview of the client by the Office of Probation and the adjustment period that follows are integral parts of the Family Court proceedings, and defense counsel play a vital role. At the interview, for example, Probation questions teens about their private lives and about their criminal cases in an effort to determine if diversion is appropriate at that time. An attorney and social work advocate are able to serve as mediators between the client and a Probation officer, ensuring that all beneficial information is properly communicated.

This allows Probation to get a better sense of the circumstances that led to the client's arrest-- one of the goals of the adjustment process.

The guidance of an attorney is invaluable while the teen fulfills his adjustment requirements. Teens may be loathe to reveal to Probation officers their ignorance of the requirements or their discomfort and difficulty with completing them. Probation officers cannot be advocates and counselors to teens because they are ultimately responsible for reporting non-compliance to Corporation Counsel. No one can feel secure confiding in someone who has the authority to punish them. An attorney, on the other hand, is bound to keep his/her client's confidences. Because a teen can safely confide in his/her attorney, the attorney can help and guide that person through adjustment, preventing small problems from becoming big problems and leading to a successful outcome.

Conclusion

Passing Raise the Age legislation was the necessary first step in treating court-involved teens in a humane, just, and age-appropriate way. Following through on the promise to increase the level of advocacy on behalf of these young people and to better their position in the justice system requires further action by the City and State. We can not leave these vulnerable young people in the confines of the Department of Corrections, and we must provide meaningful vertical representation to all youth.

Thank you for the opportunity to testify today.



**TESTIMONY OF
THE FORTUNE SOCIETY**

**NEW YORK CITY COUNCIL
COMMITTEE ON JUVENILE JUSTICE
COMMITTEE ON THE JUSTICE SYSTEM
JOINT PUBLIC HEARING
250 Broadway, New York, NY**

Wednesday, April 18, 2018

Presented by:
Rob DeLeon, Associate Vice President of Programs

The Fortune Society
29-76 Northern Blvd.
Long Island City, NY 11101
212-691-7554 (phone)

Good afternoon. My name is Rob DeLeon, I am testifying today on behalf of The Fortune Society. First, let me start by thanking the various members and staff of the New York City Council for attending today's hearing, the Committee on Juvenile Justice and the Committee on the Justice System for hosting this joint hearing, and everyone that is present today to discuss the critical and urgent need to ensure New York City is both thoughtful and prepared when enacting the new Raise the Age requirements. I am testifying today based upon Fortune's 50 years of working with young people with criminal justice history, and my own life experience and professional experience.

Implementing Raise the Age presents an opportunity for New York City to demonstrate a sense of humanity towards 16 and 17 year olds after decades of injustice, unfairly treating children as adults. **Ensuring that New York City is strategic and considerate in their actions to effectuate this policy change is something I am personally passionate about.** This passion comes from my professional experience interacting with young people over the past 15 years in Alternative to Incarceration and Reentry programming. Young people who were treated as adults, and incarcerated on Rikers as a result. This passion also comes from my personal experience having been charged myself as an adult and incarcerated on Rikers Island at the young age of seventeen.

Spending time on Rikers Island *does* change people, young or old, but not necessarily for the better. **Having spent 8 months there myself, I know firsthand that Rikers is a place where violence and anger festers. Where feelings of fear, rage, isolation, and frustration are mutually shared by the people incarcerated and the officers.** The difference is that officers should never allow these feelings to manifest in acts of violence and they should be equipped with the training and professionalism required to comport themselves in a way that understands, or at minimum acknowledges, the trauma young people are experiencing as a result of these conditions. **I have a scar on my forehead as a result of being assaulted by two officers which attests to this point.**

While I do acknowledge and appreciate the progress that has been made at Rikers towards programming and training for teenagers, it is not a substitute for their placement in a youth justice system designed specifically with their needs in mind, and staffed by people with proper training to meet those needs. Instead in the current system, no clinical background is required for officers working with young people, insufficient training is provided, and officers work long shifts with too few personnel, and they carry extreme power. This power not only penetrates the air on Rikers but it is also felt in the community via a powerful union with agendas and narratives constantly portrayed in the media. **The culmination of these dynamics leaves the incarcerated young people with the perception that officers are untouchable and they are undesirables.**

Under Raise the Age, the City must move all 16 and 17 year olds off Rikers Island by October, and we must not allow state funding cuts or the failure to transfer the Ella McQueen Center to generate delay. Removing all youth under 18 from Rikers Island is a critical step forward that we must take immediately! **While incarcerated there, I quickly learned that the harmful culture of Rikers is not formed by buildings alone, it is thriving because of many of the officers working there and the culture of violence that exists. Allowing Department of Correction**

staff to be transferred wholesale and continue supervising youth in their current manner will recreate the same harmful culture and power dynamics of Rikers Island, despite a new setting. If this culture is allowed to create a foothold in the new setting, it will be extraordinarily difficult to roll back. Phasing problematic staff out over time will not stamp out the culture once it has already taken root! This is not a viable solution, we need to start hiring and training ACS personnel, without compromising quality in interviewing, onboarding, or training!

While Raise the Age legislation calls for “specialized secure detention” for 16 and 17 year olds being charged in adult court, it does not require that Department of Correction Officers supervise those 16 and 17 year olds or have any physical presence in “specialized secure detention.” New York City should enact this legislation in accordance with the spirit, intent, and values with which our state took this massive step forward toward treating young adults with dignity and humanity, but reallocating the same officers with the same culture issues is reckless and squanders this opportunity for our City, our youth, and our future. Current correction officers who are motivated to work with young people who wish to apply to be trained and to work in ACS facilities should be allowed to be considered for such employment and individually evaluated, but current DOC officers should not be transferred wholesale. Although important, we cannot lose sight of the fact that union considerations, potential job loss, reallocation of funding, and other concerns are no match and can never outweigh the human cost and emotional, physical, and mental well-being at stake if we continue to move forward allowing young people to be cared for in the same callous manner.

Research has shown that children's brains are not fully develop until well beyond the age of eighteen, and youth who engage in illegal conduct often do not have the same level of understanding of their actions as adults. There are significant and sometimes lifelong implications for young people adjudicated in the criminal adult court system, which extend into the areas of education and employment. **New York City must recognize that automatically shifting personnel who lack the proper training and understanding required to work effectively in the juvenile justice system, is not reflective of the better understanding we now have of youth accused of crimes, and is counterproductive to what Raise the Age intends to correct.** While there is still room for improvement within the ACS environments, it is strides ahead of Rikers Island and offers a much better foundation on which to build.

There are significant budgetary and management challenges left to each of you to address regarding these unfunded state mandates. We applaud Speaker Corey Johnson and Council Finance Chair Daniel Dromm and all the NYC Council Members for including \$200 million for Raise the Age in the Preliminary Budget Recommendations, as well as \$31 million for Close to Home.

We ask, however, that you hear our concerns today and reassess the true cost of hiring appropriate personnel to supervise New York City’s youth, the leaders of tomorrow and our City’s future. Please ensure that the full funding necessary to provide the most holistic, humane approach to implementing Raise the Age is available. This is our opportunity to get it right after so many years of getting it wrong. I hope you will carefully consider the next steps because while Raise the Age came too late for me, it is not too late to get it right to protect the young people I am happy to mentor each day.

Thank you for allowing me to testify today, if you have any questions or would like to visit The Fortune Society, please contact me at rdeleon@fortunesociety.org .

**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: Rob DeLeon
Address: 29-76 Northern Blvd Long Island
I represent: Fortune Society City, NY 11101
Address: _____

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THE CITY OF NEW YORK**

Appearance Card

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 in favor in opposition

Date: 4/18/2018

(PLEASE PRINT)

Name: Javian Gainer
Address: 125 Barclay NY, NY
I represent: DC37 (District Council 37)
Address: 125 Barclay NY, NY 10007

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THE CITY OF NEW YORK**

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(PLEASE PRINT)

Name: Chris Norwood
Address: 552 Southern Blvd
I represent: Health People
Address: 552 Southern Blvd

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THE CITY OF NEW YORK**

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(PLEASE PRINT)

Name: Kevin Holmes

Address: 552 Southern Blvd

I represent: Health People

Address: 552 Southern Blvd

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THE CITY OF NEW YORK**

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

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(PLEASE PRINT)

Name: Amy Albert, Brooklyn Defender

Address: _____

I represent: _____

Address: _____

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THE CITY OF NEW YORK**

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in favor in opposition

Date: 4/19/18

(PLEASE PRINT)

Name: Nicole Triplett (NYCLU)

Address: _____

I represent: _____

Address: _____

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THE CITY OF NEW YORK**

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Name: Sergio De La Pava

Address: _____

I represent: New York County Defender Services

Address: _____

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in favor in opposition

Date: 4/18/18

(PLEASE PRINT)

Name: Dalvinia K Powell

Address: 118-35 Queens Blvd, ste 1210

I represent: United Probation Officers Association

Address: same as above

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THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Harry GREENBERG

Address: 3000 MARCUS AVE, LAKE SUCCESS, NY

I represent: United Probation OFFICERS ASSOCIATION

Address: 118-35 QUEENS BLVD., SUITE 1210 FORDST
HILLS, NY

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THE CITY OF NEW YORK**

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in favor in opposition

Date: 4/18/18

(PLEASE PRINT)

Name: Amy Albert
Address: 117 Livingston St., 7th Floor, Bklyn, 11201
I represent: Brooklyn Defender Services
Address: See above

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THE CITY OF NEW YORK**

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Charles Khez
Address: 11 Park Place Suite 1512, NY, NY 10007
I represent: Youth Represent
Address: _____

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Idris Groves
Address: 400 Van Sieten
I represent: Youth Exec
Address: _____

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THE CITY OF NEW YORK**

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 in favor in opposition

Date: 4/18/13

(PLEASE PRINT)

Name: Roberta Goldberg

Address: 1360 E. 161st St, Bklyn, NY 10451-2

I represent: EvFhe Bklyn/40 Defenders

Address: _____

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THE CITY OF NEW YORK**

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 in favor in opposition

Date: 4/18/13

(PLEASE PRINT)

Name: Tianesha Drayton

Address: 165 Rockaway Pl, Apt. 5D Bklyn NY 11212

I represent: Exalt and Youth Represent

Address: _____

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THE CITY OF NEW YORK**

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 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Julie Petersen, Pinkston

Address: 610 Fifth Ave Foundation

I represent: Pinkston Foundation

Address: _____

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THE CITY OF NEW YORK

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 in favor in opposition

Date: 7/18/2018

(PLEASE PRINT)
Name: Annie Minguéz ~~Good Shepherd Services~~
Address: 305 Seventh Avenue NY NY 10001
I represent: Good Shepherd Services
Address: _____

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THE CITY OF NEW YORK

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 in favor in opposition

Date: _____

(PLEASE PRINT)
Name: Andrea Dyk
Address: 155-03 Jamaica Avenue, Jamaica
I represent: 18 B Assigned Counsel Panel
Attorneys For Children Queens Family Court
Address: _____

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THE CITY OF NEW YORK

Appearance Card

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 in favor in opposition

Date: 4/18

(PLEASE PRINT)
Name: Dawn Mitchell
Address: 100 Water St. NY 10001
I represent: The Legal Aid Society
Address: NYC

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THE CITY OF NEW YORK**

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Quinn Gray - DOP

Address: _____

I represent: _____

Address: _____

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in favor in opposition

Date: 4/18/18

(PLEASE PRINT)

Name: Beth Powers

Address: 815 2nd Ave New York NY

I represent: Children's Defense Fund - NY

Address: 815 2nd Ave New York NY

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THE CITY OF NEW YORK**

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Grant Cowles

Address: _____

I represent: Citizens' Committee for Children

Address: _____

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 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Caryn Lesser
Address: 99 Park Ave, Ste. 2220, NYC
I represent: The Prospect Hill Foundation
Address: _____

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THE CITY OF NEW YORK**

Appearance Card

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 in favor in opposition

Date: 4/18/18

(PLEASE PRINT)

Name: Beth Abraham
Address: 8150 Broadway New York NY
I represent: Grades 5-8 Jewish Day School of T.M.Y.
Address: 8156 Broadway New York NY

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THE CITY OF NEW YORK**

Appearance Card

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

Date: _____

(PLEASE PRINT)

Name: ELIAS HUSAMUDEEN
Address: Correction Officers Guild NY Association
I represent: President
Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Boy Benton

Address: _____

I represent: Rise Theatre of Oppressed

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: 4/19/2018

(PLEASE PRINT)

Name: Genile Castro

Address: 175 Lenox Street

I represent: Exalt Youth

Address: _____

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THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: 4/18/18

(PLEASE PRINT)

Name: Anthony Wells

Address: 125 Barclay Street NY NY 10007

I represent: President, L371, SSEU

Address: _____

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**THE COUNCIL
THE CITY OF NEW YORK**

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in favor in opposition

Date: 4/18/18

(PLEASE PRINT)

Name: Paige Pierce

Address: _____

I represent: Families Together in NYS

Address: 737 Madison Ave, Albany NY

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THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: April 18, 2018

(PLEASE PRINT)

Name: Celia Green

Address: 157 E 46th St Brooklyn

I represent: CCHS Citywide Council on

Address: High Schools

**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: Gabrielle Newco

Address: Executive Director Rung a program that

I represent: Lineage Project (works inside Horizon)

Address: 195 Montague St Brooklyn NY 11201

m. Admin

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: Dana Kaplan

Address: 187 Park Place BK NY 11278

I represent: Mayor's Office of Criminal Justice

Address: One Centre St. Rm 1012 NYC NY 10007

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: 4-18-18

(PLEASE PRINT)

Name: Sarah Torgary Esq

Address: 155-03 Jamaica Av

I represent: Assigned Counsel Panel - 18B

Address: above

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Appearance Card

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 in favor in opposition

Date: 4-18-18

(PLEASE PRINT)

Name: Ronna Gordon-Galchys Esq

Address: 6143 186 St.

I represent: Assigned Counsel Panel - Queens Family Ct

Address: _____



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Testifying
1
Admin
Panel

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

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

Judge Date: _____

(PLEASE PRINT)

Name: Edwina G. Mendelson

Address: Deputy Chief Administrative Judge

I represent: NYS Courts - Unified Court System

Address: 111 Centre Street NYC 10013

Admin

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

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

Date: 4/17/18

(PLEASE PRINT)

Name: WINETTE SAUNDERS

Address: _____

I represent: NYC DOC

Address: 75-20 ASTORIA Blvd
East ELMHURST NY

Admin

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: 4/18/18

(PLEASE PRINT)

Name: Tim Ferrell

Address: _____

I represent: DOC

Address: _____

Admin

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

Admin

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Felipe Franco, Deputy Commissioner

Address: 150 William St, NYC

I represent: NYC Administration for Children's Services

Address: 150 William St

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: JEFFREY A. BUTTS

Address: 524 WEST 99th St, NY, NY

I represent: JOHN JAY RESEARCH AND

Address: EVALUATION CENTER

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: Dawn Mitchell

Address: _____

I represent: The Legal Aid Society

Address: _____

