

February 11, 2010

New York City Council Speaker Christine C. Quinn
City Council Member Maria del Carmen Arroyo
City Hall
New York, New York

Re: Pending City Council legislation that would create a new crime related to gang activity: Int. 1-2010

Dear Speaker Quinn and Council Member Arroyo:

We write to express great concern regarding legislation under consideration by the City Council – Int. 1-2010 – that would create a new criminal penalty for “criminal street gang initiation” activity.

The National Institute of Justice has allocated federal dollars to cities around the country – including New York City – to implement CeaseFire, a program that uses prevention, intervention, and community-mobilization strategies to reduce gang violence. The New York State Senate has also secured \$4 million, \$2.5 million of which would be directed to the New York City metropolitan area, to implement Operation SNUG, an initiative that is modeled on CeaseFire. The City Council should conduct further hearings to determine how best to implement these initiatives and other programs that have proven effective in diverting young people from involvement with gangs.

We recognize the need to protect the City’s youth from gun and gang violence. And we realize it is this important objective that the bill seeks to address. It is our view however that the proposed legislation will not deter gang activity, but may, in fact, exacerbate the negative feelings towards law enforcement held by many in the communities most affected by gangs. Studies demonstrate that aggressive prosecution strategies increase tension and conflict between police and community members.

What’s more, we believe Int. 1-2010 is drafted so broadly and imprecisely that its enforcement would have another serious, unintended consequence: the surveillance, arrest and prosecution of black and Latino youth for conduct that is entirely lawful. The bill uses imprecise

Speaker Christine Quinn
City Council Member Arroyo
February 11, 2010
Page 2

language to define a street gang (a formal or informal group of three or more persons who engage in certain activities, one of which involves a criminal purpose); and the proposed law would punish as an A misdemeanor the initiation or affiliation of an individual into [sic] a criminal street gang in a manner that creates a substantial risk of physical injury. At a City Council hearing on this bill and two related bills even representatives of the city's district attorneys found the definitions of gang-related crimes imprecise and overly broad. The prosecutors also stated that the existing Penal Law provides sufficient grounds to effectively prosecute street gang activity.

It can be predicted with a degree of certainty that this law, if adopted, will be enforced against youth of color in heavily policed neighborhoods. This law enforcement activity is unlikely to reach criminal gang activity, but will more likely sweep in groups of three or more young people with no gang affiliation. Parents who call the police out of concern that their kids are being solicited by gangs are likely to find that their children will be subject to police interrogation and, if admissions are made, will face arrest, inclusion in the NYPD's gang database, and quite possibly incarceration and a criminal rap sheet. The proposed penalty enhancement will be imposed disproportionately on minority youth who are being used by adult gang members.

Additionally, Int. 1-2010 elevates offenses that are violations under the state Penal Law to misdemeanors under the City's Administrative Code. The New York State Legislature has limited the prosecution of children in Family Court to those charged with misdemeanors and felonies. Currently, children under the age of sixteen cannot be prosecuted in Family Court for the commission of violations. This bill would expand the scope of Family Court and increase the number of prosecutions of the very young people the City Council seems to want to keep out of the gangs' reach.

We take seriously the concerns raised at the hearing on this bill before the City Council. However, existing law gives police and prosecutors ample authority to investigate and prosecute the type of conduct – shootings of innocent bystanders – described by you and Council Member Dickens. Moreover, those laws carry much more serious penalties than the proposed legislation.

Councilwoman Inez Dickens' characterization of the proposed legislation as a "band-aid" is a most generous interpretation. As she pointed out, the legislation fails to identify, or to address, the underlying causes of criminal gang activity. Research indicates, however, that "heavy handed suppression efforts can increase gang cohesion and police-community tensions, and they have a poor track record when it comes to reducing crime and violence."¹

¹ See, e.g., Judith Greene and Kevin Pranis, "Gang Wars: The Failure of Enforcement Tactics and the Need for Effective Public Safety Strategies," *Justice Policy Institute* 7 (2007).

Speaker Christine Quinn
City Council Member Arroyo
February 11, 2010
Page 3

Indeed, that same research cites the failure of gang suppression tactics in cities like Chicago, Los Angeles, Detroit, and St. Louis; and finds that New York, in the past, had been more effective in preventing gang violence because the city did not embrace “heavy handed suppression tactics,” but rather employed various intervention strategies to steer at-risk youth away from criminal gang activity.² Unfortunately, New York has disinvested in such strategies for addressing gang activity that endangers public safety.

Instead of adopting new, enhanced criminal sanctions, we urge the Council to take advantage of the government’s funding of programs such as Ceasefire and Operation SNUG. These programs present the City with an opportunity to reinstate and reinvigorate initiatives that have proved successful in the past. The Council should now take some time to consider how to effectively implement these initiatives, as well as existing programs operated by groups such as Council for Unity. The City Council should also consider an initiative that the City of Chicago is preparing to launch that seeks to prevent youth violence by focusing on mental-health strategies and prevention.³

We appreciate your consideration of our views; we would welcome the opportunity to work with you and the City Council in developing effective policies and practices that will prove effective in steering young people away from criminal activity – and toward positive, productive life choices.

Yours sincerely,

Bronx Defenders
Center for Alternative Sentencing and Employment Services
Center for Constitutional Rights
New York Civil Liberties Union
Peter Cicchino Youth Project – Urban Justice Center
Sistas and Brothas United
Youth Ministries for Peace and Justice

c: Members of the New York City Council

² See Finn-Aage Esbensen and D. Wayne Osgood, “Gang Resistance Education and Training (GREAT): Results from the National Evaluation.” *The Journal of Research in Crime and Delinquency* 36 (2), 1999.

³ See Editorial. “A Powerful Idea on Youth Violence.” *New York Times* Nov. 5, 2009; Susan Saulney. “Focus in Chicago: Students at Risk of Violence.” *New York Times* Oct. 7, 2009.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 2010 Res. No. _____

in favor in opposition

Date: 2/10/10

Name: DAWNIT GETACHEW (PLEASE PRINT)

Address: 860 COURTLANDT AVENUE

I represent: THE BRONX DEFENDERS

Address: _____

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1-2010 Res. No. _____

in favor in opposition

Date: _____

Name: Tshaka Barrows (PLEASE PRINT)

Address: _____

I represent: Buens Institute & Community Justice

Address: San Francisco Ca Network for Youth

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I intend to appear and speak on Int. No. 1-2010 Res. No. _____

in favor in opposition

Date: 2/11/10

Name: Kate Rhee (PLEASE PRINT)

Address: _____

I represent: Institute for Juvenile Justice Reform

Address: 1534 Bedford Ave Brooklyn 11216

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in favor in opposition

Date: _____

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Name: Malia Lazu

Address: 201 Spencer St.

I represent: HARRY BELFONTE'S Gathering 4 Justice

Address: 275 7th Ave

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I intend to appear and speak on Int. No. 1-2010 Res. No. _____

in favor in opposition

Date: 2/11/10

(PLEASE PRINT)

Name: CHARISA SMITH

Address: 10 W. 135TH ST. #107 NY, NY 10037

I represent: STRATEGIES FOR YOUTH

Address: _____

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1-2010 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Rev. Ruben Austria

Address: 339 E. 140th St. Bronx NY 10454

I represent: Community Connections for Youth

Address: 2090 Adam Clayton Powell Jr. Blvd
NYC 10027

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