



**Mayor's Office of Criminal Justice
New York City Council
Committee on Juvenile Justice
September 20, 2018**

Good morning Chair King and members of the Committee on Juvenile Justice. My name is Dana Kaplan and I am Deputy Director at the Mayor's Office of Criminal Justice ("MOCJ"). Thank you for the opportunity to testify today. I am joined by others from the administration to assist with answering questions.

As you know, 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—update on New York City's implementation of Raise the Age ("RTA")—is a major milestone in the larger context of justice reform in our city. In the last four years in New York City, we have seen an acceleration of the trends that have defined the public safety landscape 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 27%, 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 63% (from 234 in January 2014 to 86 in August 2018), and the number of children in secure juvenile detention has dropped approximately 70% (from 129 in January 2013 to 38 in August 2018), 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 the juvenile justice system, and applauded the State for its passage of RTA in April of 2017. Since then, the City has been working purposefully 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.

As we testified in April 2018 before this committee, since passage of Raise the Age in April 2017, the City has been working tirelessly to prepare for its implementation. We formed inter-agency 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 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. Finally, we have also been meeting regularly with the labor unions representing the affected employees on this implementation effort, specifically to address their concerns. We look forward to a collaborative relationship with the unions in making the implementation of Raise the Age a success.

The following updates are in addition to our April 2018 testimony.

Adolescent Population Reduction

Since the Mayor took office in January 2014, the number of adolescents in custody has fallen by more than 53%, and our ADP has remained under 100 since June of 2018. To further these reductions, the City recently invested an additional \$8 million in initiatives to divert 16- and 17- year olds from detention, where appropriate, or shorten their length of stay in jail. These initiatives, in partnership with criminal justice system and service provider partners, include: expanded supervised release, bail expediting, in-court case processing support, individual case planning resources for young people who are detained, family therapy, and intensive mentoring. Our success in safely reducing the population of young people in detention is a key component to why we are well poised for success in implementation at this point.

Training on What to Expect

The Court Processes Working Group, Chaired by Judge Edwina Mendelson, 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.

Accordingly, the Raise the Age Implementation Task Force has developed a citywide "Implementation Guide" describing in detail how each system point and stakeholder will be impacted by the implementation of Raise the Age. The Guide has been vetted by the court system, district attorneys, public defenders, and representatives from across the city agencies involved in implementation and reflects a culmination of the City's efforts to enter October 2018 fully prepared to implement Raise the Age. The guide will be publicly released tomorrow and will be made available on the MOCJ website.

Youth Parts

Raise the Age requires the creation of new, specialized “Youth Parts” in the superior court of each county. Cases for all 13-15-year-old Juvenile Offenders (JOs) and all 16-year-old Adolescent Offenders (beginning October 1, 2018) and 17-year-old Adolescent Offenders (beginning October 1, 2019) will originate in the Youth Part. Adolescent Offenders are all 16- or 17-year-olds who are charged with a felony offense.

Youth Part judges and backup judges have been designated in all counties. Additionally, the Office of Court Administration completed a three-week training for judges and an additional convening for Youth Part judges and their court attorneys.

In recognition that Raise the Age may require defense attorneys to represent clients across court jurisdictions in the event that a case is removed from the Youth Part to Family Court, the City supported a specialized training for defense attorneys who have practiced in the adult system only. Legal Aid delivered two-half day CLE training sessions on the basics of juvenile delinquency practice to a range of adult defense practitioners.

Finally, New York City Department of Probation Commissioner Ana Bermudez will hold sessions in each borough for prosecutors and defense attorneys to describe the role of Probation in the juvenile justice system.

New Alternatives to detention in the Youth Part

In addition to existing alternatives to incarceration (ATIs), there will be two pre-disposition alternative to detention (ATD) program options for young people in the Youth Part:

1. The NYC Department of Probation will make Intensive Community Monitoring (ICM) available to any young person with a case pending at the direction of the judge and defense bar. The intervention will be modeled on the ICM program currently offered in Family Court.
2. MOCJ will expand Supervised Release to serve more young people. Supervised Release services are provided by contracted community-based organizations.

The availability of these ATD programs for children whose cases are heard in the Youth Part will decrease the number of children who are held pre-trial in detention.

New after-hours processing for Juvenile Delinquents

Currently, Juvenile Delinquents arrested after the operating hours of Family Court, are transported directly to detention, likely for an overnight stay. Beginning October 1, 2018, the Family Court system will expand the hours during which Juvenile Delinquents can instead be processed in court following arrest. This will increase the number of children who are processed on the same day of arrest, thereby reducing unnecessary overnight stays in detention and contributing to fairer and speedier outcomes for children and their families.

Practically speaking, this means that Juvenile Delinquents who cannot be transported to Family Court by the arresting officer during the court’s business hours will be transported by the arresting officer to

Manhattan Criminal Court at 100 Centre Street, the same location currently used for weekend juvenile pre-petition hearings. Intake and processing of Juvenile Delinquents at Manhattan Criminal Court will begin at 4:00pm or 5:00pm, seven nights per week; a judge will be available to hear pre-petition hearings, if necessary, during the dinner hour beginning at 9:00pm.

Facilities

Significant renovations have been underway at both Crossroads and Horizon to prepare them to house the significantly expanded number of young people post Raise the Age, with improvements targeting safety, programming, and administrative space. Both facilities will have an operational capacity of 106.

We will house all Juvenile Delinquents, Juvenile Offenders, and Adolescent Offenders at Crossroads, which as you know currently holds all of the young people in the ACS system. ACS will bring on an additional 175 Youth Development Specialists at this facility by October.

We will transfer all of the 16- and 17-year olds who are currently held on Rikers at RNDC to Horizon, as well as all newly arrested 17-year-olds. The facility will be jointly staffed by DOC and ACS Programming staff, with a phased transition to all ACS staff within a period of no longer than 24 months through new hiring. The State has denied our request to allow limited interaction between this population and other young people of similar charge severity and age, which we believe is a policy of segregation that is outside of the spirit of Raise the Age. Because of our success in reducing the number of young people in detention it will not impede our ability to meet the October 1st deadline, and we will submit a new waiver request to the State if need be over the course of implementation.

Horizon and Crossroads will both offer the following programming to adolescents:

- Enrichment Programming;
- Vocational training;
- Program Counselor-led programming (such as interactive Journaling, Project Adventure Workshops, Youth Communication, etc.); and
- Access to religious services.

At both sites, youth will attend school for a full school day – either working towards a high school diploma or high school equivalency. 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.

Raise the Age Citywide Conference

Finally, on September 21st the City is holding a conference, “Raising the Age for a Fairer New York,” which will feature talks on topics such as adolescent brain development, racial and ethnic disparities in juvenile justice, pretrial release and bail, crossover youth, trauma-informed care, and meeting the educational needs of justice-involved youth. We will equip practitioners with an understanding of the

operational details of how Raise the Age will unfold in New York City, and of best practices in juvenile justice and youth development nationwide.

Closing

New York City has long supported reforms that treat 16 and 17-year-olds as juveniles to produce the best possible outcomes for young people, their families, and for public safety. We are well positioned to build on the significant progress that we have made in New York City's juvenile and young adult justice systems to date. Yet, our work to ensure the successful implementation of this law will not conclude on October 1. In appreciation of the required coordination, between City agencies, the Courts, prosecutors, defense attorneys, community and neighborhood providers, as well as collaboration between the State and local government, the City will lead an ongoing collaborative effort to understand the impact of the law.

With the ongoing collaboration of our partners throughout the city, we will realize the goals of Raise the Age and ensure a fairer justice system for the children of New York.

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
September 20, 2018**

“Oversight – Update on NYC’s Implementation of Raising the Age of Criminal Responsibility”

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

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

We are on the cusp of one of the most monumental juvenile justice reforms that we have seen in decades. Under Raise the Age, New York State's justice system will now acknowledge what volumes of research in adolescent brain science has shown us: treating children *as* children produces better outcomes for justice involved youth.

After more than a century of treating 16- and 17-year-olds as adults in the criminal justice system, the passage of Raise the Age last year created an entirely new system for older adolescents that was to be implemented in just 18 months. Unique to New York City, the law also mandates within the same timeframe the transfer of all 16- and 17-year-olds currently housed on Rikers Island to a non-Rikers facility to be jointly administered by ACS and the Department of Correction (DOC). Raise the Age is an opportunity to build on the tremendous work that has already been done to transform the juvenile justice system in New York City, which has made the City a national leader in juvenile justice reform. The City has done an enormous amount of work over the past year to create this new system for older youth and to establish the infrastructure to support it. I am pleased to update you now on ACS's contribution to this massive effort.

ACS RTA Preparations

ACS's 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 and diversion programs for youth who are at risk of delinquency, detention services for

youth who are arrested and awaiting court resolution, and residential services for adjudicated placed with New York City, as well as aftercare services upon their return to the community.

Community Based Alternatives

As you know, overall admissions to juvenile detention and Close to Home have decreased significantly year over year, and this is due in major part to the intensive preventive services that ACS, the Department of Probation and our partners provide to help prevent young people from ever entering the system. 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, and so we have expanded our continuum of evidence-based programs, which now also include interventions that promote permanency for justice-involved youth who do not have family resources.

ACS's Family Assessment Program (FAP) is available to families of youth up to age 18 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)—the largest alternative to placement program in the City—in partnership with the Department of Probation. 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. As part of our preparations for Raise the Age, DYFJ will be adding new programs to our JJI continuum to help us further meet the needs of older youth.

With substantial input from local communities and providers, DYFJ issued a Request for Proposals (RFP) earlier this year for the Mentoring and Advocacy Program (MAAP). MAAP is a new community-based program that is designed to support youth by providing them with mentors and advocates, with a focus on school engagement, education and workforce assistance. Contract awards were announced in July 2018, with services to begin on November 1, 2018. The four

providers selected for awards have strong community ties and significant community relationships, and are located in Brooklyn, Manhattan, Queens and the Bronx.

We also continue our close collaboration with our partners at the Mayor's Office of Criminal Justice, the Department of Probation, and the courts to increase the use of Alternative to Detention (ATD) and Alternative to Placement (ATP) programs to keep young people who do not need to be confined safely in the community with necessary services and supports.

ACS has also 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 Close to Home. The Task Force's work is ongoing, and we are currently working to develop a concept paper for bringing gender specific programming to the juvenile justice system continuum.

Detention

Non-Secure Detention

Non-Secure Detention (NSD) is a smaller, less restrictive residential setting for youth who are remanded to detention by the Family Courts during the pendency of their court case. Each NSD residence houses up to 12 youth and offers young people a supportive, family-like environment and close supervision. To help accommodate the 16- and 17-year-olds who will be entering the juvenile justice system under Raise the Age, ACS issued a RFP in fall 2017 to increase our existing NSD capacity. Contracts were awarded in April 2018 and will allow us to expand NSD residential care to 131 beds.

Secure Detention

Facilities Updates

As you know, ACS currently operates two secure detention facilities—Horizon in the South Bronx and Crossroads in Brooklyn. Under the initial phase of Raise the Age implementation,

Crossroads will house Juvenile Delinquents, Juvenile Offenders, and Adolescent Offenders, and will be staffed primarily by ACS, with DOC serving in an advisory capacity conducting security audits and recommendations. Horizon will house the adult-charged 16- and 17-year-olds who are currently on Rikers, as well as newly arrested 17-year-olds who will continue to be charged as adults until October 1, 2019. Horizon will be jointly operated by both ACS and DOC. Applications to certify Crossroads as a Specialized Secure Detention (SSD) facility and Horizon as a Specialized Juvenile Detention (SJD) facility have been submitted to the NYS Office of Children and Family Services (OCFS) and the NYS Commission of Correction and are expected to be finalized within the coming days.

Since the enactment of Raise the Age one short year ago, the City has been working nonstop to ensure that these facilities safe to serve older youth. Extensive renovations have been ongoing at both sites over the past year. The total budget for long-term renovations at both facilities is \$329 million—with an authorized budget of \$128 million—and nearly \$112 million committed in contracts through the Department of Design and Construction. These contracts have funded the immediate health and safety renovations. Construction at both sites include:

- Renovations of the medical unit and dormitory halls,
- Wall hardening throughout the facilities,
- Upgraded program areas and classroom spaces,
- New plumbing and HVAC systems,
- Updated staff and transportation areas, and
- Enhanced security

Staffing Updates

The work of our frontline staff in detention is critical for creating positive outcomes in the lives of the young people that pass through our doors. It is not an easy job, but it is an extremely

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important one, and is why ACS is proud to have joined with SSEU, Local 371 of DC 37 and our partner city agencies (DCAS, OLR, OMB) to create the new Youth Development Specialist (YDS) civil service title for our frontline staff. The YDS title replaced the previous Juvenile Counselor civil service title series. Not only does it offer a more appealing salary and range than the previous title, it better reflects the developmentally appropriate supervision and care we require of our frontline staff and the important role that staff play in helping youth learn new skills.

We are on track to hire 175 new YDS staff by October 1st, which are necessary to meet the staffing ratio required by state regulation to safely manage youth who will be housed at Crossroads, and we have an ongoing campaign to hire more than 400 people to fill YDS positions over the next two years. As new classes of ACS recruits are hired and trained, DOC staff will transition out from their role at Horizon. We are on our way to meeting our hiring goal, but we need the Council's help in identifying a pool of committed people in your communities who want to be a force for change in the lives of youth. Information about the title and the position has been shared with you today.

Program Updates

Essential to operating a safe and effective facility is having a unified program approach and theory of change to guide all the staff interactions and interventions on behalf of youth. ACS has been working with local and national experts from the Missouri Youth Services Institute, the developers of Safe Crisis Management, and NYU-Bellevue to develop a system of care that uses a multidisciplinary team who work together consistently with the same group of youth to reinforce positive behaviors. The multi-disciplinary team staff will use a wide array of de-escalation techniques to manage and redirect youth behavior. Essential to the model's success is teaching both youth and staff trauma responsive skills to help youth regulate emotion and behavior. The vast majority—as high as 90% of young people in the juvenile system—have experienced some sort of

trauma, and the City's juvenile detention centers better address those unique needs by employing evidence-based models.

Youth in our secure facilities receive education, health care, mental health services (including psychiatric and psychological care), dental care, recreational activities, and case management onsite. Youth in secure detention attend the NYC Department of Education's (DOE) District 79 Passages Academy, a full time educational program that is operated by DOE across our entire juvenile justice residential continuum. DOE teachers execute a standard curriculum that includes English language arts, mathematics, science, social studies, and regents prep, and enables youth to earn credits toward graduation. In addition to the comprehensive educational services provided through the Passages Academy schools, we have worked with the DOE to establish high school equivalency programs in detention and Close to Home as an alternative for some older youth, and have developed internships, new career certificate programs and better access to vocational schools. DOE has also invested in educational transitional counselors at both Horizon and Crossroads who assist youth in their transition back to their community school upon their release.

Earlier this year, ACS announced that we've entered into a partnership with Health + Hospitals, who will help manage the contracted health care providers currently working at Crossroads and Horizon. This will ensure that young people in detention continue to receive high-quality health care – and it's also a first step toward ensuring continuity of care for young people throughout the juvenile justice system, from detention through placement and aftercare, and continuing as needed after they are released.

DYFJ and the Department of Youth and Community Development collaborate with an extensive array of partners to provide a range of recreational programs and services to justice-involved youth in our facilities. Through positive activities and strong role models, we hope to

develop the skills young people need to redirect their lives in a positive direction when they leave our care. We have vastly expanded our portfolio of programming and services, including our arts and enrichment programs, to better address the interests of all youth in our system, including the older adolescents who will be entering our facilities under Raise the Age.

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, and also attend DOE Passages Academy schools. Close to Home launched only five years ago, but in that time has dramatically changed the way we approach services and programming for justice involved youth and has positioned New York City as a national model for juvenile justice reform. ACS currently partners with seven non-profit agencies to deliver strengths-based placement programs in 24 non-secure placement residences (NSP) and four limited secure placement (LSP) sites located in and near New York City. All of our Close to Home providers have experience in serving juvenile justice populations, and each program offers structured residential care in a smaller, supervised, and home-like environment.

We estimate that court orders directing Close to Home placement will increase once Raise the Age is fully implemented. We are working with our current Close to Home providers to maximize existing capacity to accommodate immediate increases in Close to Home placements under Raise the Age and to assess future capacity needs. We fully intend to work with the City Council on the development of any new Close to Home residential sites.

As you know, despite the overwhelming evidence of the success and effectiveness of Close to Home and the expected census increase under Raise the Age, New York State chose to eliminate every dollar of funding for Close to Home in the State FY 2019 budget. While we are deeply

disappointed that the State budget does not continue the shared State fiscal responsibility for juvenile justice in New York City, which has always existed previously, and which continues in the rest of the state, we remain committed to the innovative and successful Close to Home program.

Closing

Raise the Age has been a massive undertaking for New York City and across the state, and we are overjoyed that this monumental system reform is now a reality. We would not have made it to this point without the City Council's advocacy, and I sincerely thank each and every member for your effort and supportive voice. The story doesn't end on October 1st. Raise the Age implementation will continue over the next several years as 17-year-olds transition into the juvenile justice system in 2019 and pre-Raise the Age youth exit our care. We will need the Council's partnership and support to make sure this enormous system reform is a success for all youth. We need your advocacy to help restore funding for Close to Home so that children in New York City will receive the same support from the State that children in all other NY counties receive, and we need your voice to help us forge partnerships with organizations that can provide the supportive services our youth and their families need to thrive. Thank you for the opportunity to discuss the work ACS has done in collaboration with our provider partners, our partners in Labor, and our sister City agencies to prepare for Raise the Age implementation. My colleagues and I are happy to take your questions.



PAY IT

forward

**Become a Youth
Development Specialist
at ACS and Make a
Difference in the Life
of a Young Person.**

NYC
Administration for
Children's Services

- Do you have valuable life experiences that could positively influence the direction of a young person?
- Do you have what it takes to be a role model and a champion for youth?
- Do you want to make a difference and give back to your community and city?

➔ If you answered YES to any of these questions, this is the job for you!!!

What we are looking for:

The New York City Administration for Children's Services is hiring! We are looking for compassionate, enthusiastic individuals who are committed to working with young people and interested in helping turn the lives of at-risk youth around. Working as a Youth Development Specialist, you would:

- Provide safe and secure supervision and care to at-risk youth who are placed in secure juvenile detention by the court
- Serve as a role model, mentor and guide
- Work as part of a team to support positive and healthy youth development
- Manage conflict and youth behavior safely including using de-escalation and restraint techniques as necessary
- Provide structure and engage youth in pro-social activities and behaviors
- Support youth in their efforts to develop new social, academic and vocational skills and interests
- Receive valuable training on building healthy relationships with youth and crisis prevention and management

Working as a Youth Development Specialist offers:

- A competitive starting salary of \$45,000 with a YDS making approximately \$60,000* after 5 years of employment
- Participation in NYC's pension system
- Comprehensive health insurance offering both individual and family coverage
- Longevity Bonuses for your years of service
- Overtime pay at time and a half for working over 40 hours a week
- Higher educational opportunities

*includes a uniform allowance and longevity pay

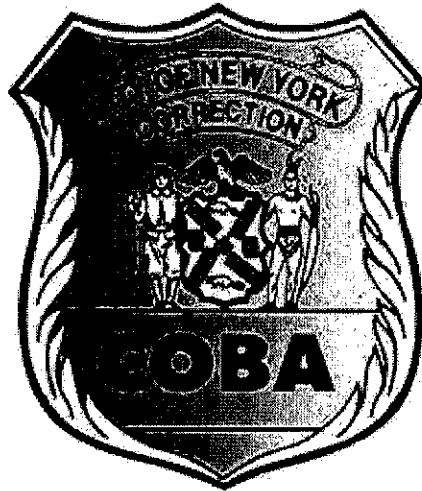
Requirements:

A four year high school diploma (or its educational equivalent) and two years of full-time experience working directly with at-risk youth or young adults up to age 24 in a group, community, educational or institutional setting, or other combinations of higher education and work or volunteer experience.

How to Apply:

Please visit nyc.gov/yds

FOR THE RECORD



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

**COBA PRESIDENT ELIAS HUSAMUDEEN'S
TESTIMONY BEFORE THE COMMITTEE ON
JUVENILE JUSTICE**

NEW YORK CITY COUNCIL

SEPTEMBER 20, 2018

Good morning Chairman King, and the distinguished Council Members of your committee.

My name is Elias Husamudeen and I am 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 8,000 inmates daily and over 45,000 inmates in just the last year alone.

I greatly appreciate the opportunity to testify about an issue that is of great importance to New York City Correction Officers. As you may recall, I testified before this committee on April 18, 2018. Now here we are again, five months later, with a deadline approaching, and nothing else to ensure any success.

To be clear, 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; staffed by employees specifically trained to meet those needs, individuals whose expectations upon applying for and securing employment with the City of New York are consistent with serving those needs.

This is not a description of the duties of our members.

Correction Officers are employed by the Department of Correction. We applied for, and were hired to serve as law enforcement officers providing care, custody and control for inmates in correctional facilities. Our training and expectations are consistent with this intention. To be clear – there has been no change in training since I testified in April.

Never in the history of the employment of Correction Officers have we been required to police facilities primarily dedicated to educational and social development purposes. Yes, the DOC's care, custody and control of pretrial detainees and convicted criminals has included providing educational and social development programs. Those programs, however, were

secondary to officers' main goal of keeping the incarcerated incarcerated! We are not trained to be social workers or educators. Raise the Age reform was designed to cure a situation where our officers are being asked to work well outside our expertise with respect to juveniles.

Earlier this year, the DOC issued a memo stating that "DOC staff will work in joint ACS/DOC facilities after Raise the Age begins." This was and still is 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 did not specify which "staff" (uniformed or non-uniformed) would be assigned to the joint ACS/DOC facilities. It was misleading in that, assuming "staff" to include uniformed staff, it presents the assignment of such staff as a done deal and a legal requirement, neither of which are true.

That is why we are currently litigating the issue. The New York Supreme Court has agreed that there is a need for the City to take our concerns into account. Earlier this week a Temporary

Restraining Order has been issued. A hearing has been scheduled for October 1st which is the proposed start date for Raise the Age. The Temporary Restraining Order issued on Monday said that the city could not demand that Correction Officers, assigned to Horizon, be forced to complete invasive background checks, which are not required by law.

The Judge also said that any background checks and/or documents, must be consistent with civil service law which COs have already adhered to when they became COs. The Judge further said the DOC cannot threaten DOC employees who refuse to discipline COs who refuse to fill out these unlawful background checks.

And finally, the city cannot transfer or assign COs to work at Horizon until the matter is resolved at or after the next court hearing on October 1st.

We believe the Judge was absolutely correct because over the last two months, COBA has uncovered overwhelming evidence revealing that the job of a CO at Horizon is completely different from the job of a CO assigned to every other DOC facility.

In fact, the duties for working at Horizon are out of title and in direct violation of New York Civil Service Law as I mentioned earlier. We have obtained policies that would apply only to COs assigned to Horizon and the training materials applicable to Horizon reveal that the COs and their supervisors would be required to engage in social development, psychological counseling, education, ego building, and daily life instructions including combing hair and brushing teeth. These counseling, parenting, and babysitting duties are wholly inconsistent with the job description, training, and experience of Correction Officers.

We have consistently supported the spirit of the Raise the Age law and its purpose, which is to provide adolescent detainees with programs and services tailored especially for their age group. These services and programs must be provided by trained

Juvenile Counselors, not by Correction Officers, whose experience, training, and skills are best utilized in providing care, custody, and control in DOC facilities exclusively.

As we have been saying since Day 1, the training and expertise of Correction Officers grows out of the understanding that it is correction facilities for which they will be responsible. One can't just change the rules to fit a new political need.

Again—nothing has changed since April.

Correction Officers have not been examined for the educational and social development demands of the ACS. Now, years into their service our members are being asked to fundamentally redefine their jobs in a manner neither they, their union, nor their employer could have possibly contemplated when they agreed to be examined and to serve.

The bait-and-switch!

Our members have been vilified in the media, disciplined, sued, prosecuted, convicted and subjected to a court appointed

monitor primarily in response to our dealings with this population.

How can you stand by and do nothing as people accuse correction officers of using too much physical force against this population and then turn around and assign correction officers the task of monitoring the juveniles in a new facility?

The truth is that Correction Officers are not the reason this population are accused of violent acts. Correction Officers do not pluck random individuals off the street and hold them without recourse. There is not a single individual resident on Rikers Island who has not been committed there by the order of a Judge. And now we are discussing 16 & 17 year-old children accused of such violent activity that a Judge has ordered their detention – yet the law and rules of the State of New York says that they must be held in a Specialized Secure Detention ("SSD") or Specialized Juvenile Detention ("SJD") facility. Such facilities are required to be staffed by people with specialized training.

But, despite the Law and despite the rules, Correction Officers are expected to be able to police adolescents in a non-correctional environment.

Let's face it. The City has mismanaged the implementation of the Raise the Age Law. The City had two years to hire and train people. And, nothing was done.

And now – all they want to do is to put Correction Officers in the middle. After October 1, the next time juveniles are arrested for butchering another human being as what happened with the Bronx teenager, they will be sent to Horizon in Mott Haven. Those accused clearly should be supervised by trained employees who recognize that their propensity for violence must be treated differently than the way Correction Officers are trained.

Unfortunately, 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 Horizon.

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

TESTIMONY

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

Oversight: Update on NYC's Implementation of Raising the Age of Criminal
Responsibility

September 20, 2018

The Legal Aid Society
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Presented by:
Lisa Freeman
Director, Special Litigation and Law Reform Unit
Juvenile Rights Practice
The Legal Aid Society

The Legal Aid Society thanks Chair King and the Juvenile Justice Committee for holding today's hearing and providing us with the opportunity to testify regarding New York City's implementation of Raise the Age.

The Legal Aid Society

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 supports Raising the Age. We, along with a coalition of advocacy and other defender organizations are actively engaged in the planning and implementation process of the Raise the Age efforts, including moving youth off Rikers Island.

The Goals of the Raise the Age Legislation

The legislation raising the age of criminal responsibility is groundbreaking. For too long, 16 and 17 year old teens were charged as adults for all offenses in New York State, and as a result faced a system that lacked a rehabilitative mandate and oftentimes faced harsh lifelong collateral consequences even if they never re-offended. An arrest or criminal conviction can permanently foreclose access to education, employment, housing and lending, to name a few consequences. While the Raise the Age law is not perfect, it is a major step forward.

Raise the Age New York is intended to provide 16 and 17 year olds with policies, programs and facilities that are age-appropriate, rehabilitative, and most importantly humane. One overarching goal of the Raise the Age legislation is to reduce the number of youth prosecuted as so-called adults in Criminal Court. As the Council is well aware, due to coordinated efforts by multiple City agencies, there have been many positive juvenile justice reforms in recent years in New York City. These reforms include: increased diversion from court action, enhanced community-based services and alternatives to incarceration, increased services in incarcerative settings, and re-entry services. There is more work to be done. As will be discussed more fully below, we urge City and State agencies to continue to work together to improve youth policing practices, and to divert more youth from arrest, prosecution and incarceration.

Who Are The Youth Affected By Raise The Age?

Racial Inequities in the Justice System

Racial inequities permeate the justice system. The Legal Aid Society zealously advocates for youth of color in the New York City Family and Criminal Courts on a daily basis. For too long, Black and Hispanic youth in New York City have been unfairly and vastly overrepresented in both systems.¹ According to the Administration for Children's Services ("ACS") Detention Demographic Data, 94.8% of all New York City youth admitted to secure detention facilities in 2017 self-identified as Black or Hispanic; similarly, 90.2% of all New York City youth admitted to non-secure detention identified as Black or 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 or Hispanic.³ The vast majority of youth admitted to secure detention and Rikers Island, come from communities that face systemic 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.

LGBTNBQI+ and Runaway and Homeless Youth in NYC

Moreover, 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

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/AnnualDemographicDataForNSPAndLimitedSecurePlacementFY2017.pdf>

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, often lacking family support, LGBTNBQI+ youth have more police encounters. Further, many homeless youth find it necessary to engage in sex work to secure a place to sleep or to earn income, making them vulnerable to sex trafficking-related arrests. Transgender young adults are often targeted by NYPD police operations for loitering and other prostitution related offenses.⁶ Transgender youth often lack government-issued identification that match their gender identity and their affirming names, which can make interaction with law enforcement more complicated.⁷

The Needs of Justice-Involved Youth

Justice-involved youth often have significant mental health and educational needs, far greater than those of youth in the general population. 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.⁸ 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.”⁹ Youth with disabilities and special education classification are also disproportionately represented in the justice system.¹⁰

⁴ Irvine, Angela, and Canfield, Aisha, 2017, “Reflections on New National Data on LGBTQ/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 Id.

⁷ 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>

⁸ 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.

⁹ <http://www1.nyc.gov/assets/opportunity/pdf/policybriefs/detention-brief.pdf>.

¹⁰ See, e.g., https://fisherpub.sifc.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1058&context=education_ETD_masters (“The findings of the literature review and the New York State study show that youth with

Furthermore, girls in the justice system have unique, 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.

New York City's Readiness for Raise the Age

By raising the age of criminal responsibility, New York City can divert more youth from criminal prosecution and punitive treatment, and provide more youth with rehabilitative and developmentally appropriate services, while at the same time ensure greater protections for youth and communities at large.¹³ Detention and placement harms youth over both the short and long term, disrupting a youth's schooling and exacerbating symptoms for youth with a history of mental health issues, trauma or abuse. Over the long term, detained youth are less likely to complete high

disabilities and special education classification are overrepresented in our juvenile justice system when compared to the public school system.”)

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.

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.

school and find employment, and more likely to suffer from poor mental health than comparable youth who are not detained. Youth who have been detained are also more likely to be rearrested for new offenses, adjudicated or convicted, and incarcerated compared to youth who remain at home while awaiting court or pending placement.¹⁴

We urge the myriad agencies involved with implementation of Raise the Age, namely: NYPD, ACS DYFJ, Department of Probation (“DOP”), Corporation Counsel, the District Attorneys’ offices, the Mayor’s Office of Criminal Justice Services (“MOCJ”), New York City Department of Correction (“DOC”), the NYS Office of Court Administration (“OCA”), OCFS and the State Commission on Correction (“SCOC”) to continue to engage in comprehensive and transparent planning, training and oversight that includes the participation of all those impacted by this new law, including youth and their families, to ensure that Raise the Age is meaningfully implemented. Our testimony below highlights key areas for improvement as Raise the Age implementation nears.

NYPD Youth Policing

NYPD must provide training to its members on adolescent development as well as the overall needs of system-involved youth. Specialized and targeted trainings and resources for NYPD should emphasize: (1) the use of techniques to de-escalate and reduce the use of force in interactions with youth; (2) resources to divert youth from arrest and court-involvement; (3) tools to decrease the impact of disproportionate policing of youth of color; (4) the importance of understanding adolescent brain development and adolescent behavior when encountering youth; and (5) the need to improve relations, conceptions and attitudes between youth and police,

¹⁴ <https://www.aecf.org/m/resourcedoc/aecf-2014JDAIProgressReport-2014.pdf>.

including youth of color, runaway and homeless youth and LGBTNBQI+ youth, as all of these groups are disproportionately policed. Certainly, the NYPD can improve police accountability and communication with these communities by, for example, building upon changes to the NYPD patrol guide requiring officers to be more affirming in their interactions with the LGBTNBQI+ communities.

Diversions Services

Both precinct and court-house diversion programs are critical to ensuring that youth who can succeed without court intervention are given the chance to do so, since contact with the justice system can lead to poor outcomes.¹⁵ New York City has implemented a number of 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.¹⁶ In addition, NYC's Department of Probation (DOP) has implemented a vigorous diversion program in Family Court known as "adjustment." DOP should ensure that this program is given a similarly robust application to the 16 and 17 year old youth to be prosecuted in Family Court under the Raise the Age legislation. Adequate funding for diversion programs will further support successful implementation of Raise the Age.

¹⁵ <http://www.calendow.org/youth-arrest-detention-bad-justice-worse-health/>

¹⁶ Center for Court Innovation, "Project Reset," 2017, at <https://www.courtinnovation.org/node/20117/more-info>. <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.

Alternatives to Incarceration

When efforts to divert an arrest from prosecution are unavailable or fail, the court may be faced with the decision of whether to detain the youth or release the youth home. 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. Like diversion, alternatives to detention (ATDs) in lieu of incarceration are cost effective and often lead to better outcomes for youth.¹⁹ As the Council is aware, the City has a variety of comprehensive ATDs and alternatives to placement (ATPs) services. 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. We know that ACS and MOCJ are evaluating its ATD and ATP programs to meet the needs of older youth. We also ask that the City ensure each ATD and ATP program provide services that are affirming of LGBTNBQI+ youth. Additionally, transgender, non-binary and intersex youth should have a voice in which program they attend to ensure they are affirmed in their gender identity. Finally, runaway and homeless youth should not be turned away from ATDs or detained by the Court because of a lack of family support.

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

¹⁸ Id.

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).

Detention

Secure and Specialized Secure Detention Facilities Policies and Procedures

The 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,” but 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

²⁰ Adolescent Offenders (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.

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 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.

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

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 increased 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, improved mental health care and invested in mentor and gang intervention programming. Other programming now available to youth in DOC custody 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. The City has invested considerable money to implement these programs for youth on Rikers. As the City takes steps to move youth off Rikers to the 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. While many officers have received training

²⁴ *Id.*

²⁵ *Id.*

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

to work with youth on Rikers, execution of these new skills has been uneven at best. Staff complicity in incidents, lack of readiness to implement de-escalation measures with fidelity, and inconsistent supervision have led to slower progress than we would like. Moreover, on October 1st, the 16 and 17 year olds will be moved to Horizon, a smaller space than where they are currently housed on Rikers. This will present its own challenges.

Of specific note, the rooms in juvenile detention do not have toilets or sinks, a design that is consistent with juvenile correctional setting best practice. ACS staff has historically allowed the young people to leave their rooms and escorted them to the bathroom upon request. This has generally occurred without incident. Because the SSDs are subject to the standards of the New York City Board of Correction (BOC), the BOC has recently required that DOC officers must respond to 16-17 year olds' requests to go to the bathroom or for a drink of water within five minutes of the request.²⁷ The Council should review the BOC monitoring of this issue to ensure compliance by DOC officers.

It is important to note that ACS DYFJ has also struggled with the safety and care of young people. In 2012, OCFS placed ACS DYFJ on a Corrective Action Plan, to reduce its high rate of restraints and room confinement in its two secure detention facilities which lasted several years. 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

²⁷ <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/July-10-2018/POST/2018.07.10%20-%20Record%20of%20Variance%20Action%20-%20RTA%20Dry%20Cells%20POST.pdf>.

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

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 The ACS DYFJ secure detention restraint policy echoes this sentiment, and we have seen an overall reduction in the number of restraints and the use of room confinement. We do, however, receive reports that some DYFJ staff continue to use physical restraints in an abusive manner in an effort to intimidate or punish youth.

The Need for Council Oversight of Applicable Policies and Regulations

Over the course of the last several months we have reviewed and provided comments aimed at strengthening OCFS and SCOC regulations governing the implementation of Raise the Age. We have also commented upon numerous draft ACS DYFJ SSD policies, which have not yet been made public, and on DOC variance requests to the Board of Correction. We urge the Council to request and review these policies to identify possible concerns and to provide a structure for oversight.

We are pleased that generally speaking the Raise the Age regulations and proposed SSD policies are youth centered and rehabilitative rather than punitive in nature. We have proposed that ACS strengthen the SSD policies in a number of ways, including the following:

- First, given our concern about DOC staff in SSDs, we urge ACS to limit DOC's role as much as possible. For example, we urge that DOC staff not be posted inside SSD classrooms, as their involvement in the educational environment may escalate minor behavioral disruptions into violent confrontations.

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.

- Second, although ACS delineates the importance of family and community contact for youth while in the SSD in its draft visitation policy, we urge ACS and DOC to ensure that youth have significant access to their support systems and avoid unduly restrictive policies on visiting, phone calls or mail. Specifically, we believe that allowing only three seven-minute calls per week, as stated in ACS policy and BOC variance, is unduly restrictive. This is simply insufficient family or community contact for most 16 and 17 year olds under any circumstances, let alone when they are facing extraordinary and difficult conditions. We urge ACS collaborate with youth when creating their authorized visitor list and to encourage, rather than unnecessarily restrict, access to the youth's support system.

- Third, we object to the policies requiring that youth be strip searched as a matter of routine following every visit with family or friends. Research on adolescent development suggests that youth are more traumatically affected by strip searching than adults, and may experience the search as a form of sexual abuse. Strip searches should be the exception rather than the rule. ACS's proposed SSD policy includes less intrusive means to search youth that could be used in place of the strip search. Suspicion-less strip searches after visits are overly intrusive and contribute to the traumatization or re-traumatization of youth.

- Fourth, we object to the policy authorizing ACS' and DOC's use of "prone" restraints in the SSD. OCFS, the NYS Office of Mental Health (OMH), the NYS Office for People with Developmental Disabilities (OPWDD) and the ACS Children's Center all **prohibit** prone restraints. In particular, OMH banned the use of prone restraints having deemed them "to be dangerous." Moreover, we object to inclusion of the use of prone restraints even as a temporary or transitional hold and have urged ACS to amend its policy to prohibit such a dangerous practice.

We expect that ACS will consider our recommendations and urge them to make the suggested changes.

SSD Staffing

Having DOC staff in the SSDs will create additional obstacles to a process that will be fraught with challenges. However, since 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, and who understand and adopt the principles of de-escalation and the use of force only when necessary 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. This move towards a behavioral change model and away from unnecessary and excessive force must be incorporated in the policies and procedures as well as the training, supervision and accountability measures of the SSDs.

Facility Space

We have concerns that the two secure detention facilities in the City will not have enough capacity to house all of the expected youth within the regulatory requirements. Additionally, several concerning space challenges have come to our attention in Crossroads, where some of the juvenile delinquents and all the juvenile offenders are housed since they were moved there to allow for construction in the Horizon Detention Center. The available space for the mental health staff has been significantly reduced, constricting their ability to provide the service that is appropriate

for a population of young people with traumatic life histories and concomitant mental health challenges. We are concerned that this will be an issue at both Crossroads and Horizon. We also have concerns that the school spaces will be inadequate to meet the need. We urge the Council to inquire as to the plans to accommodate all the youth in both secure and specialized secure detention as Raise the Age is implemented and to closely monitor the process as the implementation begins.

Classification

It is essential that an appropriate classification rubric for the youth held in SSDs be developed. This rubric should not rely solely on age or alleged offense, but rather on service need and safety. Strict limitations on agency overrides to the classification system should be in place so that the officers/staff cannot sidestep the rubric at will. Additionally, 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.³¹ It is our understanding that ACS and DOC are working on a classification tool, but we are not aware what the status is of that effort and we urge the Council to inquire as to when the tool will be complete and available for review.

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

³¹ ACS currently holds 16 and 17 year olds who allegedly committed a crime before they turned 16.

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

Close to Home Placement and After Care

In its Close to Home placements, ACS DYFJ, in cooperation with its contract providers, endeavor to provide youth placed by the Family Courts with developmentally appropriate programming in smaller, therapeutic facilities that model the best practices in juvenile justice. ACS DYFJ placement policies require a therapeutic milieu and emphasize family engagement and early and comprehensive reentry/discharge planning. In recent past, ACS has dedicated significant resources to improve its discharge and reentry practices.

Raise the Age implementation requires the City to expand its placement and reentry services to serve older youth who may not have significant family involvement, or who have suffered from family rejection and need housing, educational and employment services. Additionally, ACS policies and services for youth aging out of foster care that provide developmentally appropriate programs and referrals to older youth, including educational, employment, and access to independent living and supportive housing services are instructive. ACS has expertise and access to community resources dedicated to working with adolescents up to and beyond age 21. Close to Home services are better for New York City children and families than the previous state placement program, as they emphasize family engagement when possible

and rehabilitation.³² Finally, as we have testified previously, the Close to Home program has conferred remarkable educational benefits to youth, allowing youth to accumulate NYC DOE educational credits and quickly transition to community schools upon reentry.³³

Oversight is Crucial

Given the potential role of multiple agencies, we urge the Committee on Juvenile Justice to join with the Committee on Criminal Justice in the oversight of the SSDs to ensure that the SSDs are developed and managed safely. 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 needs of youth and families impacted by Raise the Age.

Additionally, we urge the Council to consider legislation requiring ACS to report on data for the SSDs similar to that which is currently required for ACS secure detention facilities.³⁴ This reporting should include data on daily population in SSDs, the use of physical and mechanical restraints, incidents resulting in injuries, instances and length of time of room confinement, and allegations of child abuse. It is also critical that ACS collect and report on demographic data such as admission to detention by top arrest charge, by reported zip code of youth's primary residence, and by age, gender and race. Reporting in these areas will increase transparency and accountability and help ensure there is meaningful oversight of SSD operations and management.

³² ACS's Close to Home Annual Report 2016-2017, released on February 6, 2018, p. 3 (hereinafter ACS Close to Home Annual Report).

³³ *Id.*

³⁴ See, e.g., ACS Annual Incident Data Report <https://www1.nyc.gov/assets/acs/pdf/data-analysis/2017/AnnualIncidentDataReportForDetentionFY2017.pdf>; ACS Detention Demographic Data Fiscal Year Report, <https://www1.nyc.gov/assets/acs/pdf/data-analysis/2017/AnnualDemographicDataReportForDetentionFY2017.pdf>; ACS Annual Child Abuse Allegation Report, <https://www1.nyc.gov/assets/acs/pdf/data-analysis/2017/ChildAbuseAndNeglectReportsForDetentionAndPlacementFY2017.pdf>.

Finally, independent oversight of detention facilities is 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 can be subject to political pressures and changes. External oversight enhances public trust by increasing transparency and accountability.

The Legal Aid Society remains available to assist the City with the implementation of Raise the Age with the primary goal of providing improved outcomes for system involved youth. Once again, we thank you for the opportunity to offer testimony regarding this important issue. We are happy to answer any questions you may have.

Committee on Juvenile Justice

Oversight Hearings on Raise the Age

September 20, 2018

FOR THE RECORD

Testimony by Chris Norwood, Executive Director, Health People

Programming is key to Raise the Age. The New York City Department of Probation has an extraordinarily successful program called Arches. It is a group and individual mentoring program where older men who have been in the criminal justice system are mentors for young men age 16 to 24 on probation. The use of “credible messengers” has been critical to the success of Arches just as has been the Department’s innovation of contracting this program to credible community groups, firmly rooting it in communities. Intensive evaluation has shown that Arches is achieving extraordinary results---young men in this program have at least 60% fewer re-arrests than similar young men not in Arches.

For Raise the Age, it is key to have capacity for Arches in place. The intensive evaluation showed that the younger the participant, the better results.

Unfortunately, at this time, it does not appear that the Department of Probation has sufficient funds to expand Arches as it should be expanded for Raise the Age. The Department has proposed Arches programming for 16 and 17 year olds which would only have capacity for about 32 younger men in each borough.

Making Arches a success also means that the Department, which has done such outstanding work in developing this now nationally recognized program, has to steadily keep it on track.

When there is turnover of probation officers, for example, new probation officers don’t always know the importance of making referrals to Arches so programs won’t be at full capacity even though hundreds of young men could benefit. For all of us in this field, constant staff training and interactions with each other are vital.

But equally to do the more that is needed for 16 and 17 year olds, more funding for programs like this has to exist. As so often happens in our city, there is a huge discrepancy between who has funds and where they are needed. Most of these youth are in the Bronx and Brooklyn---indeed ALL of those who are still jailed ---and not on probation---will be placed in the Bronx and Brooklyn no matter where they actually live. The Manhattan District Attorney’s Office had \$734 million* in asset forfeiture funds as of June 30th. This money was gained by enforcement of federal laws---through, obviously, the key location of the Manhattan District

Attorney. By contrast, the Bronx had about \$3million in asset seizures. The Manhattan District Attorney gets to singlehandedly decide where this money goes.

I have not been able to find that he has donated any funds whatsoever to youth and justice programs in the Bronx and Brooklyn although he has actually used some of this money for OUT OF STATE programming in a national rape kit initiative.

I realize the City Council does not provide oversight of the District Attorneys---but I think we all need to ask---how can it be proper for this amount of federally-derived money not be fairly used for the city---and especially, since it derived from crime, not be used for programming so well shown to keep our highest need youth from further crime!

* Source: <https://nypost.com/2018/02/14/manhattan-da-is-flush-with-asset-forfeitures/>



JUSTICE FROM COURTROOM TO COMMUNITY

**Written Comments of Kate Rubin, Youth Represent
New York City Council
Committee on Juvenile Justice
Oversight-- Update on New York City's Implementation of
Raising the Age of Criminal Responsibility
September 20, 2018**

Youth Represent provides holistic re-entry legal services for court-involved youth. Our mission is to ensure that young people affected by the criminal justice system are afforded every opportunity to reclaim lives of dignity, self-fulfillment, and engagement in their communities. We provide criminal and civil reentry legal representation to young people age 24 and under who are involved in the criminal justice system or who are experiencing legal problems because of past involvement in the criminal justice system. We also engage in policy advocacy and train the next generation of leaders through our Youth Speakers Institute. Our interdisciplinary approach allows us to understand the full extent of our clients' legal and practical challenges so we can effectively represent them as they make the journey from courtroom to community.

Since we opened our doors in 2007, Youth Represent has advocated for 16 and 17 year olds to be treated as children in the justice system. We played a pivotal role in the passage of Raise the Age legislation and we appreciate the Council's long-term advocacy and support for Raise the Age. We especially thank the Committee on Juvenile Justice and Chairperson King for the active role you have taken since the passage of Raise the Age to ensure full and proper implementation of the legislation here in New York City, including by holding this and other hearings. The Council and this Committee will continue to play a critical oversight role in the coming months and years as these complex policy changes go into effect and we look forward to continued partnership.

The passage of Raise the Age in April 2017 was an important step towards creating a youth justice system that is truly built on principles of fairness, justice, and youth development. This opportunity is especially significant here in New York City. While the state dragged its feet in passing Raise the Age legislation, the City made great strides reducing incarceration both of 16 and 17 year olds in the adult system and of youth under 16 in the juvenile justice system.¹ Through the implementation of the Close to Home program and significant investments in alternatives to incarceration and other programs for court-involved youth, the City has already taken steps to address some of the worst harms of our youth justice system. Raise the Age provides the opportunity to build on these successes and on the expertise and leadership of the Administration for Children's Services (ACS) and its community-based partners in serving youth, allowing New York to truly lead the nation in youth justice reform.

¹ The number of 16 and 17 year olds incarcerated in New York City decreased by 53% from December 2013 to December 2017. *Fact Sheet: Adolescents (16- and 17-Year Olds): Recent Declines and Opportunities for Further Reductions*. Mayor's Office of Criminal Justice, 5/31/2018. Available: <https://2aptr31i4knk1qo3dh464d6n-wpengine.netdna-ssl.com/wp-content/uploads/2018/09/adolescents-factsheet-v4.pdf>. Overall admission to juvenile detention decreased by 32% from FY 2014 to FY 2017. *Testimony of Felipe Franco, New York City Administration for Children's Services, New York City Council Committee on Juvenile Justice, April 18, 2018, p. 2.*

We recognize the significant investment the City has made in Raise the Age implementation efforts, including the extensive efforts of the Working Groups led by Mayor's Office of Criminal Justice (MOCJ) and the ongoing collaboration among multiple agencies aimed at reducing the number of 16 and 17 year olds detained at Rikers Island. We also appreciate that the City stepped into the financial breach created by the State this fiscal year, providing full funding not only for Raise the Age implementation but for the continuation of Close to Home.

While there are reasons to be hopeful, there are also reasons to be vigilant. Numerous states have raised the age of criminal responsibility over the past decade, including Connecticut (2007), Illinois (2010), Mississippi (2010), Massachusetts (2013), New Hampshire (2014), Louisiana (2016), and South Carolina (2016).² Thus far there have been direct correlations between raising the age and a decrease in both arrests and incarceration of 16 and 17 year olds.³ That said, policy changes often create unintended consequences, and given the complexity of New York's Raise the Age legislation, actual outcomes for youth are difficult to predict.

Data Reporting

As advocates for our communities, we want to work with the City to ensure that New York follows the national trend of decreased confinement and decreased arrest rates for youth after raising the age of adult prosecution. To this end, we hope the Council will pass legislation requiring the regular public reporting on demographics and outcomes of 16 and 17 year olds who come in contact with the justice system. This will allow for the identification of any changes needed to better serve the young people in their custody, or to better manage or allocate funding to particular sectors of the juvenile justice system. Most importantly, creating a monitoring and reporting system will inform both the City and the public if there is any increase in detention as an unintentional consequence of Raise the Age. The data monitored, analyzed and published, should include the following:

From the Administration for Children's Services (ACS)

- a) Monthly, and separately for Crossroads/Horizon and gender, reports of the number of children in non-secure, secure, and specialized secure detention who are:
 - Juvenile offenders detained pre-sentence, disaggregated by top charge, race, gender, and current age
 - Juvenile delinquents detained pre-sentence, disaggregated by top charge, race, gender, and current age
 - Adolescent offenders detained pre-sentence, disaggregated by top charge, race, gender, and current age
 - Youth transferred from Rikers/17 year olds arrested before October 2019, disaggregated by top charge, race, gender, and current age

² The Justice Policy Institute. *Raising the Age: Shifting to a Safer and More Effective Juvenile Justice System*. The Justice Policy Institute, 2017, pp. 4, *Raising the Age: Shifting to a Safer and More Effective Juvenile Justice System*.

³ The Justice Policy Institute. *Raising the Age: Shifting to a Safer and More Effective Juvenile Justice System*. The Justice Policy Institute, 2017, pp. 1-14, *Raising the Age: Shifting to a Safer and More Effective Juvenile Justice System*.

- Adolescent offenders sentenced serving their sentence in an SSD, disaggregated by top charge, race, gender, and current age
 - Juvenile delinquents admitted to ACS through NYPD, broken down into percent released and percent detained, and further disaggregated by top charge, race, gender, and current age
- b) Monthly, and separately for Crossroads/Horizon and gender:
- Average length of detention for juvenile offenders pre-sentence
 - Average length of detention for juvenile delinquents pre-disposition
 - Average length of detention for adolescent offenders pre-sentence
 - Total number of open remand orders from Family Court, broken down into % held in secure detention and % held in non-secure detention and further disaggregated by top charge, race, gender, and current age
- c) Monthly, the number of Rapid Response teams deployed for an a) Area/Level A Disruption; b) Emergency/Level B Disruptions.
- d) Quarterly, detention incident reports to include 16 and 17 year olds in both secure and specialized secure detention, clearly indicating whether the youth involved was an adolescent offender or a youth transitioned from Rikers and whether the staff involved are ACS staff or DOC staff.
- e) All additional data on youth in secure and non-secure detention currently reported pursuant to Admin Code 21-905 should be expanded to also cover specialized secure detention.

From the Department of Probation (DOC)

- a) Quarterly reports indicating:
- Total number of juvenile delinquents under 16 screened for adjustment in family court, disaggregated by top charge, race, gender, and age at time of interview
 - Number of juvenile delinquents under 16 who have their cases adjusted, disaggregated by top charge, race, gender, and age at time of interview
 - Number of 16 year olds screened for adjustment whose cases originated in family court, disaggregated by top charge, race, gender
 - Number of 16 year olds whose cases originated in family court that have their cases adjusted, disaggregated by top charge, race, and gender
 - Number of 16 year olds screened for adjustment whose cases were transferred from the youth part of criminal court, disaggregated by top charge, race, and gender
 - Number of 16 year olds whose cases were transferred to family court from the youth part of criminal court and have their cases adjusted, disaggregated by top charge, race, and gender
 - Number of juvenile delinquents under 16 receiving probation services
 - Number of juvenile delinquents 16 and older are receiving probation services
 - Average days from arrest to adjustment interview

- Aggregate reasons stated for not adjusting, disaggregated by top charge, race, gender, and age at time of arrest
 - Number of juvenile delinquents under 16 at the time of charge who are ordered detained, disaggregated by top charge, risk level score race, gender, and age at time of risk assessment interview
 - Number of juvenile delinquents who are 16 at the time of charge (and, after 10/1/19, number of juvenile delinquents who are 17 at the time of charge) who are ordered detained, disaggregated by top charge, risk level score, race, gender, and age at time of interview
 - Percent of dispositional recommendations for placement, disaggregated by race, gender, and age
- b) The NYPD, Department of Probation, Department of Correction, and Administration for Children’s Services shall disclose any risk assessment instruments and underlying data or validation studies related to justice-involved youth, including:
- Copies of the risk assessment instrument, including questionnaires
 - Scoring rubrics
 - Underlying data used to create the RAI
 - Any algorithms relied on by the RAI
 - Validation studies and their underlying data
 - Any independent evaluations
 - AUC values

From the Mayor’s Office of Criminal Justice (MOCJ)

Quarterly Reports Indicating:

- The total number of felonies filed against 16 and 17 year olds in Criminal Court, disaggregated by county, top charge, race, gender, and age at time of charge
- Number of violent felonies removed to Family Court from the Youth Parts, disaggregated by county, top charge, race, gender, and age at time of charge.
- Number of non-violent felonies removed to Family Court from the Youth Parts, disaggregated by county, top charge, race, gender, and age at time of charge.

Specialized Secure Detention

Among the most important achievements of Raise the Age legislation is the promise of ending adult incarceration of 16 and 17 year olds in New York. We—along with dozens of advocates and organizations across the city—have repeatedly expressed our grave concern that removing 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. It risks not only transferring the violent culture of Rikers Island to specialized secure detention, but allowing that culture to permeate juvenile detention facilities and effect younger children.

Raise the Age legislation requires creation of “specialized secure detention” for 16 and 17 year olds who are being tried as adults, operated by ACS “in conjunction with” the DOC. 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. Moreover, there is no research or policy justification for having adolescents supervised by staff from the adult corrections system.

The Correction Officers' Benevolent Association, the union representing DOC Correction Officers, have also made clear their vehement opposition to supervising youth in specialized secure detention. Their lawsuit asserting that the work is "out of title" has cast uncertainty on the City's very ability to remove 16 and 17 year olds from Rikers Island by the October 1st deadline imposed by Raise the Age legislation. Regardless of the outcome of that litigation, one thing is certain: 16 and 17 year olds will not be well served by Correction Officers trained in and accustomed to an adult correctional environment, transferred against their will into specialized secure detention. Indeed, the 16 and 17 year old clients our staff attorneys have met with recently at Rikers Island have expressed apprehension and fear over the move to Horizon because of the DOC staffing issue.

At the most fundamental level, the mission of the Department of Correction is to maintain custody and control of adults. The mission of the Administration for Children's Services is to "protect and promote safety and well-being of New York City's children and families." Teenagers belong in a youth justice system developed to meet their needs, staffed by people trained in that system. The City has the power to ensure that this is the case, and the expertise and experience to do it right. As such, we expect ACS to play a leadership role in administering specialized secure detention facilities consistent with their juvenile justice practice model and the purpose of RTA, including provision of age-appropriate services and programming that effectively engages youth. The City must follow through on its commitment to ensuring that new and existing facilities are prepared for and will meet the needs of youth, rather than becoming settings that are governed by adult correctional practices and principles.

To this end, we urge the City to hire and train ACS Youth Development Specialists so that they can staff specialized secure detention on a timeline that is much more aggressive than the 2-year time-table currently in place. And we urge the Council to continue to use its critical oversight powers to monitor the issue moving forward, gathering information from youth, families, providers, and advocates as well as agencies.

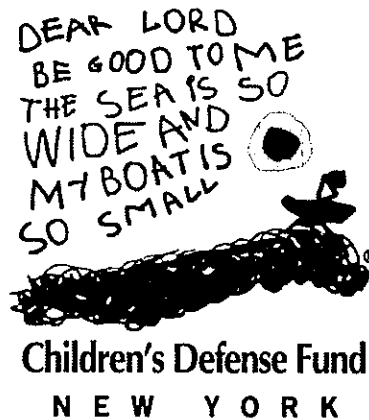
Looking Ahead

Passage of Raise the Age was a tremendous victory, but the work does not end here. Youth Represent, along with our colleagues in the Raise the Age—NY campaign and youth justice advocates around New York, will continue to work at the state level to support the City's efforts to ensure that it can meet the spirit and the letter of the law. It is our duty as New Yorkers to ensure that 16 and 17 year olds arrested in New York—regardless of the charge—receive trauma-informed care in a rehabilitative environment, and that they are provided the tools they need for successful reintegration after arrest and incarceration. We look forward to partnering with the City and the Council to monitor implementation of the new law and to ensure the best possible outcomes for youth.

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

Oversight Hearing – Update on NYC's Implementation of
Raising the Age of Criminal Responsibility

September 20, 2018



Julia L. Davis, Esq.

Director, Youth Justice and Child Welfare

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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, child welfare and juvenile justice.

Thank you Chair King and members of the City Council Committee on Juvenile Justice for this opportunity to testify on the topic of New York City's implementation of Raise the Age (RTA). 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 implemented through appropriate planning and allocation of funding to support jurisdictions around the State.

While a number of outstanding concerns remain as the City approaches October 1, it is important to recognize the City's work to date.

Financial Support and Planning for Implementation

The City has committed to RTA and has aligned significant resources for both planning and assembling the financing for implementation in the absence of state support, including making a commitment to funding Close to Home. These investments have the potential to make the City a leader in RTA implementation state-wide, demonstrating how a coordinated approach that engages government agencies, community based providers and advocates can realize the purpose of the new law.

A Smaller System

The City has successfully reduced youth incarceration of both of 16 and 17 year olds in our adult criminal justice system, and youth under 16 in our juvenile system. The average daily adolescent population in our City jails was more than 400 in 2015.¹ Today, there are closer to 200 in Department of Correction custody.² At the Administration for Children's Services, the total monthly admissions of juveniles to detention is currently at the lowest in the last 4 years—fewer than half of what they were in 2015.³ The number of youth in secure detention was only 34, and

¹ https://www1.nyc.gov/assets/doc/downloads/pdf/ANNUAL_REPORT_FY16_n.pdf, at 1.

² <https://data.cityofnewyork.us/Public-Safety/Daily-Inmates-In-Custody/7479-ugqb>, data sorted by age, including data for youth 16-18.

³ <https://www1.nyc.gov/assets/acs/pdf/data-analysis/flashReports/2018/07.pdf>, at slide 20.

there were only 42 youth in non-secure detention, as of June 2018.⁴ Similarly, the City is placing fewer adjudicated youth in institutional settings. During June 2018, there were only 8 admissions to Close to Home residential providers—down from nearly 3 times as many in 2016.⁵ This sustained shift toward services, supports and community-based alternatives, has resulted in a juvenile justice system that continues to shrink. This is the right direction for our young people.

The Administration for Children’s Services Must be at the Center of the Reform

We continue to rely on the expertise and leadership of the Administration for Children’s Services and its partners to ensure that the continuum of community-based services and programming is ready, and that new and existing facilities are prepared for and will meet the needs of youth requiring detention or placement. We expect ACS to ensure that its practice guides all settings where youth may be detained or placed, preventing them from being governed by adult correctional practices and principles.

Ongoing Concerns

Despite the City’s significant progress since the Committee last convened to discuss RTA in April, we continue to be concerned about the role of correction officers in Specialized Secure Detention (SSD) -- facilities intended to function pursuant to a juvenile justice model that shifts away from adult correctional approaches. The ongoing litigation between the correction officer’s union and the City only underscores that ACS must move with all possible haste to hire and train Youth Development Specialists on a timeline that is more aggressive than the 2-year time-table currently in place.

As the City confronts how to successfully remove the youth from Rikers Island, we cannot forget that programming and services are at the heart of the RTA reform, and that adjustment, diversion and community-based supports ought to be the dominant focus of our time and resources. When detention is necessary, whether for Juvenile Delinquents, Adolescent Offenders, so-called Rikers Youth, or Gap Year 17s,⁶ practice should be guided by youth development principles, including effective engagement in programming that meets youths’ needs, trauma-informed services, positive behavior management and age-appropriate, graduated sanctions for youth who do not follow the rules. We urge the City to provide more information about its plans for programming

⁴ *Id.* at slide 22.

⁵ *Id.* at slide 24.

⁶ “Rikers Youth” are those, defined by section 500-p of New York Correction Law, as youth who must be removed from Rikers Island and placed in settings certified by the Office of Children and Family Services, in conjunction with the state Commission of Correction, and operated by NYC ACS and DOC as a “specialized juvenile detention facility.” “Gap Year 17s” are 17 year olds who will continue to be prosecuted as adults under the first year of Raise the Age implementation, but cannot be housed in an adult jail on Rikers Island.

in SSD facilities, as well as its policies for behavior management and discipline. These two components are essential to the success of these settings for youth.

Monitoring and Data Reporting

It is important to note that this is just the beginning. We will know much more about how Raise the Age is being implemented over the next few months. We urge the City Council to play an active role in the months ahead, promoting transparency by closely monitoring implementation of RTA, including codifying robust data reporting and hearing from system stakeholders, including youth and families impacted, to ensure that court processes, facilities and services are consistent with RTA reforms, and so that issues or problems that may emerge are identified and remedied as quickly as possible.

Any reporting bill should build on existing ACS reporting requirements to capture essential information about new facilities and policies required by RTA. This includes tracking the number of youth in non-secure and secure detention, SSD (for AOs), and Specialized Juvenile Detention (SJD) facilities (for Rikers Youth and Gap Year 17s). Data should also capture the length of time youth spend in detention in these settings. ACS should report information on incidents in the new SSD/SJF facilities, as it does with current detention settings, as well as information about the deployment of Rapid Response Teams in SSD/SJD. The City Council should also require other City-wide reporting on adjustment rates for these youth populations, rates of case transfer from the new Youth Part to Family Court, as well as access to and engagement in programming and services. We would welcome the opportunity to work with you on such a bill.

Conclusion

CDF-NY is grateful to the Committee's monitoring of RTA implementation. We will continue to work at the State level to support the City's efforts to ensure that it can meet the spirit and the letter of the law, namely that adolescents in our justice system are treated as the children they are. We encourage the City 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 Julia L. Davis, Esq., Director of Youth Justice and Child Welfare, 212-697-0882.



Girls for Gender Equity Testimony for the New York City Council Committee on Juvenile Justice

Delivered by: Ashley C. Sawyer, Esq., Director of Policy and Government Relations

September 20, 2018

Good Morning Council Member Powers, and committee members, and thank you very much for today's hearing on Resolution 283 and for doing your due diligence to ensure that the city make every effort to ensure sound implementation of Raise the Age. My name is Ashley Sawyer and I am an attorney and the Director of Policy at Girls for Gender Equity (GGE). GGE is a 16 year old youth development and advocacy organization committed to building the leadership of cisgender and transgender girls and gender non-conforming youth of color. We are committed to removing the social and political barriers that encumber the freedom, and full expression of our young people.

One of the most horrific, and damaging barriers to the full freedom, success, and opportunity of New York's young people has been the juvenile and criminal legal systems. For decades, this state was one of the two states in the country that automatically arrested, convicted, and punished children as young as 16 as adults. There was no scientific evidence to support that incarceration of any kind for children yields better life outcomes or aids in positive youth development. , In fact, the science has consistently pointed in the opposite direction, indicating that children's brains are not fully developed until their mid-twenties, making them highly susceptible to impulsive decisions, more easily swayed by peer-pressure, and less capable of appreciating the gravity of their actions.¹

The United States Supreme Court has decided through a string of cases, that young people are "constitutionally different" from adults.² In 2016, the U.S. Supreme Court made the decision to

¹ Massachusetts General Hospital, Center for Law, Brain & Behavior (Dr. Laurence Steinberg)
<http://clbb.mgh.harvard.edu/steinberg/>

² Miller v. Alabama, 567 U.S. 460 (2012)

I know girls who are now 16 and 17 and are sitting upstate New York as we speak in adult jails, and I know that their futures are going to forever be encumbered by the criminal record that will follow them for the rest of their life. Yet if they were born 11 months later, they could have their record sealed. This has implications for access to public housing, for job opportunities, and ultimately for the social and economic mobility of their families. I again would like to thank and applaud this body for this resolution, and express my sincere support for the commutation of the sentences of young people who were tried in adult court at ages 16 and 17. I want to emphasize that any review of their cases should not be done using an adult criminal standard, but through a recognition of the brain development, lifetime trauma, and other context around when the actions were committed. This resolution should also recognize that for some young people, whose offense took place once they turned 18 or 19 years old, but whose first contact with the system was for offenses that were adjudicated in the adult criminal court when they were 16 or 17, are also deserving of consideration. Juvenile justice data often demonstrates that incarceration has an iatrogenic effect on youth.⁴ This means that the first arrest and encounter with city jails created a snowball effect for young people that positions them for future arrests.

Finally, the need remains for a critique of the effectiveness of any incarceration of youth, including incarceration within juvenile facilities. The state must also begin to allow people in our communities to receive expungement of criminal records, which is available in states across the country. These are critical first steps toward undoing the long-term harm created by this state's criminal legal system, and restoring justice and dignity back into the communities that have been most impacted by this system's reach.

We at Girls for Gender Equity look forward to the Council's continued oversight over implementation of Raise the Age. Reports that we have all seen so far indicate that city seems to be inclined to default creating a version of the adult system for 16 and 17 year olds. We know our children deserve far better.

Thank you again for the opportunity to share our thoughts. We look forward to collaborating more to explore the unique ways that all young people - and especially girls and TGNC youth of color - are affected by this city's juvenile justice system.

⁴ Uberto Gatti, Richard Tremblay, & Frank Giaro, Iatrogenic Effect of Juvenile Incarceration, 50 J. OF CHILD PSYCHOLOGY & PSYCHIATRY, 991 (2009). A 20 year study which found that it is incarceration itself which further exacerbates anti-social behavior in youth and increases recidivism.



SOCIAL SERVICE EMPLOYEES UNION LOCAL 371

AFSCME, AFL-CIO, DC 37

1501 BROADWAY, SUITE 450 | NEW YORK, NEW YORK 10036 | TEL.: (212) 677-3900 | FAX: (212) 477-9161 | WEB: SSEU371.ORG

Testimony of Anthony Wells,
President SSEU Local 371
on
DYFJ's Efforts in the Implementation of
Raising the Age of Criminal Responsibility
September 20, 2018

Good Morning:

My name is Anthony Wells and as President of Social Service Employees Union Local 371, I represent 19,000 members, that include: The Youth Development Specialist Title Series, 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. We are here to discuss the implementation of the Raise the Age Legislation. In particular we are referring to the moving of 16 & 17-year-olds off of Rikers Island.

We reiterate our support for the concept and passing of the Raise the Age Legislation. However, the October 1st, implementation date is challenging, a problem and ill conceived. While the City struggles to meet the mandate, there are serious concerns over staffing, training, the physical plant, policies and security.

The biggest issue is who will staff the Horizon Juvenile Detention Center. Although the City has created and negotiated for the title series, Youth Development Specialist, the agency does not plan on using the title on October 1st. Instead the plan is to use Correction Officers and Uniform Supervisors to staff and provide security. This plan has been opposed by the uniform Unions and this Union. Clearly the responsibility for detained Juveniles is a Youth Development Specialist Job. The focus of the Youth Development Specialist is to provide counseling as well as safety for the residents in their charge. Youth Development Specialist are trained to assist in the development of the residents. The Correction Officer, while providing counseling as an ancillary duty, is to secure the inmates and facility.

It is clear, that Juvenile facilities should be staffed and run by ACS Administration and Personnel by utilizing the Uniform Officers, and DOC Administrators. Because of this, a mini Rikers Horizon has been created in the Bronx.

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The lack of communication and support between the City, State and Union has exacerbated this problem. Some see it as Union busting, some see it as poor planning and others as political stubbornness.

Whatever the case, the residents of Horizon will suffer. This plan does not provide the Best services.

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

President

ANTHONY WELLS

Executive Vice President

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in favor in opposition

Date: 9/20/18

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Name: Diamondique Perry

Address: 65-36 MICHOPITTAN AVE. 13 FL

I represent: MICHELLE VILLAGE, BOX 11379
EXALT YOUKIA

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Name: Dalvin & Russell

Address: 110-35 Queen Blvd.

I represent: United Protection Officers Association

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Name: Keray Lowe

Address: 101 West 140th

I represent: F.O.I.A (Friends of Island Academy)

Address: 127 W 127th

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Name: Vidal Gorman

Address: _____

I represent: JustLeadershipUSA

Address: _____

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in favor in opposition

Date: 9/20/2018

(PLEASE PRINT)

Name: Ashley Sawyer, Esq.

Address: _____

I represent: Girls for Gender Equity

Address: 23 Chapel Brooklyn

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Elias Husamudeen

Address: COBA President

I represent: Correction Officers Benevolent Association

Address: _____

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Giselle Costin

Address: 175 Remond Street

I represent: Exalt Youth

Address: _____

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: IKIM JAMES PERELL

Address: 115 Bedford Street #1000

I represent: EXALT YOUTH

Address: 115 Bedford Street #1000

**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: 9/20/2018

(PLEASE PRINT)

Name: JULIA DAVIS

Address: 815 2nd Ave NY NY 20017

I represent: Children's Defense Fund - NY

Address: see above

**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: JEAN-CLAUDE LEBEC

Address: 75-20 ASTORIA BLVD., QUEENS NY

I represent: DEPT. OF CORRECTION

Address: _____

Please complete in **THE COUNCIL** *Sergeant-at-Arms*
THE CITY OF NEW YORK

Appearance Card

[]

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

in favor in opposition

Date: 9/20/17

(PLEASE PRINT)

Name: Felipe Franco - Deputy Commissioner

Address: for Youth & Family Justice

I represent: ACS

Address: 150 William St, 15th floor

Please complete in **THE COUNCIL** *Sergeant-at-Arms*
THE CITY OF NEW YORK

Appearance Card

[]

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

in favor in opposition

Date: 9/20/18

(PLEASE PRINT)

Name: Dana Kaplan

Address: Deputy Director

I represent: Mayor's Office of Criminal Justice

Address: 1 Centre St. NY, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 9/20/18

(PLEASE PRINT)

Name: USA Freeman + Nancy Ginsburg

Address: 199 Water St

I represent: The Legal Aid Society

Address: 199 Water 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: 9/20/18

(PLEASE PRINT)

Name: Anthony Wells

Address: 125 Barclay Street NY NY 10007

I represent: President, PSEU, E. 37th, DC 37

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 9/20/18

(PLEASE PRINT)

Name: Genevieve Gray

Address: 33 Bear St

I represent: Department of Protection

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 9/20/2018

(PLEASE PRINT)

Name: Kate Rubin

Address: 727 E. 10th St Bklyn NY 11230

I represent: Youth Represent

Address: 11 Park Place 15th Fl NY, NY

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 9/20/2018

(PLEASE PRINT)

Name: Dominica (Latina) Finch

Address: 1127 Mathewson Ct

I represent: Exall Youth

Address: 175 Rensselaer St

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