

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON JUVENILE JUSTICE

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February 28, 2013
Start: 10:08 a.m.
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HELD AT: Council Chambers
City Hall

B E F O R E:
SARA M. GONZALEZ
Chairperson

COUNCIL MEMBERS:
Maria Del Carmen Arroyo
Fernando Cabrera
Daniel Dromm

A P P E A R A N C E S

Judy Harris Kluger
Chief Judge
New York State Unified Court System

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Deputy Commissioner, Policy, Planning and Measurement
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A P P E A R A N C E S (CONTINUED)

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Parent
Community Connections for Change

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Akmir Kaheem
Founding Member, Board President
Families On The Move

Jordyn Lexton
Founder, Executive Director
Drive Change

CHAIRPERSON GONZALEZ: Thank you.

Good morning, everyone. I am Council Member Sara M. Gonzalez, Chair of the Juvenile Justice Committee, and today is February 28th, 2013. At today's hearing we will examine Adolescent Diversion Parts in criminal courts, as well as hear testimony on introduction 981, introduced by Council Member Debbie Rose, which would amend the administrative code of the City of New York in relation to requiring the Administration for Children's services to publish demographic data and incident reports on youth detained and placed in juvenile facilities, and to repeal Chapter 2 of Title 9 of the Administrative Code of the City of New York, as it relates to the Department of Juvenile Justice. I want to state for the record that I am also co-sponsor of this bill, and I look forward to hearing testimony from ACS on this piece of legislation. I will begin by discussing the oversight portion of our hearing and then briefly comment on intro 981. I would like to thank Chief Judge Judy Harris Kluger, for being here today. Judge Kluger is Chief of Policy and Planning for New York State's Unified Court

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2 System, and has played an instrumental role in
3 implementing and overseeing the adolescent
4 diversion parts in criminal courts. I would also
5 like to thank my colleagues, who will be here,
6 some of them are having their own hearings, so as
7 we go along most likely different colleagues will
8 come in. And as they come in I will introduce
9 them. I just want to say that--excuse me. In
10 recognition of the poor outcomes for adolescents
11 facing criminal prosecution, New York State Chief
12 Judge Jonathan Lippman called for reform in the
13 way that the justice system treats adolescent
14 defendants. In the fall of 2011, Judge Lippman
15 announced that he would create a pilot adolescent
16 diversion program within the criminal courts in
17 nine counties throughout the state, including the
18 five counties of New York City. The goal of the
19 adolescent diversion program is to improve
20 outcomes for 16- and 17-year-olds by providing
21 judges with more effective options to address the
22 unique needs of adolescents, while avoiding
23 criminal records and related collateral
24 consequences. Instead of being rushed through a
25 court system that is hard to navigate and filled

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2 with older criminals, often facing more severe
3 charges, adolescents appear before judges who
4 focus on identification of underlying problems,
5 intervention, and rehabilitation. While the
6 adolescent diversion program is still in its early
7 stages and may vary across the pilot sites
8 depending on resources and priorities, a look at
9 selected parts may highlight how the parts treat
10 adolescents differently from the criminal justice
11 system and suggest ways to further improve the
12 program as it evolves. Today the Committee would
13 like to examine how the adolescent diversion
14 program has been operating since its
15 implementation in January 2012. Specifically, the
16 Committee would like to gain better understanding
17 of the number of youth who have been accepted into
18 the adolescent diversion program in each borough
19 since the inception of the program, the typical
20 scenarios of how the cases are ultimately resolved
21 and whether there are adequate community services
22 and resources to handle the referrals from
23 criminal courts and the Center for Court
24 Innovation. Additionally, the Committee looks
25 forward to the Administration's testimony

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2 regarding intro 981 and the bill's intent to show
3 demographic data and incident reports on youth
4 detained and placed in its juvenile facilities,
5 and can better assist the City's oversight
6 process. With that being said, I would now like
7 to invite Chief Judge Judy Harris Kluger to
8 present her testimony, which I believe will be
9 focused on the adolescent diversion parts in
10 criminal courts portion of our hearing. Thank you
11 and welcome, Honorable Judge.

12 JUDY HARRIS KLUGER: On behalf of
13 Chief Judge Jonathan Lippman and Chief
14 Administrative Judge Gail Prudenti, thank you so
15 much for this invitation to discuss the five pilot
16 adolescent diversion parts operating in the New
17 York City Criminal Courts. I'd like to offer the
18 Council a snapshot of the judiciary's experience
19 with adolescent diversion and appreciation for
20 whatever you can do to enhance the resources
21 within the community to assist adolescents. The
22 Council has a long record of recognizing the need
23 to avert recidivism and rearrest and reduce the
24 cost and heartache associated with incarcerating
25 offenders, particularly young offenders. Creating

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2 linkages to enhanced supervision and services for
3 adolescents has so much potential, for the same
4 reason as adolescent diversion parts; both focus
5 on building concrete life skills and promoting
6 accountability in discreet populations of
7 offenders, using the tools most appropriate for
8 that population. Incentive-based sentencing
9 alternatives are nothing new to the New York State
10 Judiciary; they are the theory behind our
11 successful problem-solving courts, as you have
12 seen with our drug courts, mental health courts,
13 and veterans' courts. But now we are applying
14 them to the extent that state law allows to
15 adolescent offenders. As you know, New York State
16 established 16 as the age of criminal
17 responsibility over 50 years ago, and remains one
18 of only two states in our nation to prosecute 16
19 and 17-year-olds as adults. Recognizing that many
20 of these adolescents lack the capacity to fully
21 appreciate the consequences of their actions,
22 Chief Judge Jonathan Lippman has proposed
23 legislation that would raise the age of criminal
24 responsibility in our state. As he stated in his
25 State of Judiciary this month, with a tailored

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2 age-appropriate approach, we can provide them with
3 services they need to break the cycle and get
4 their lives back on track. While enactment of
5 this legislation, which combines features of the
6 family court with the criminal court, would permit
7 adjustment of cases as well, is our ultimate goal,
8 we have created pilot parts in the interim to
9 address his issue. In January of 2012, we opened
10 nine adolescent diversion parts on an experimental
11 basis. These pilot parts currently operate in New
12 York City Criminal Court in each of the five
13 boroughs, as well as Nassau County District Court,
14 and the city courts of Buffalo, Mt. Vernon, and
15 Syracuse. Since their creation, these adolescent
16 diversion parts adjudicated over 3,000 cases in
17 which 16- or 17-year-old defendants were accused
18 of a felony or a misdemeanor offense. In these
19 nine pilot parts, participating judges receive
20 substantial training in the sociology and penology
21 of juvenile offenses. Three full day programs
22 have been conducted thus far, and judges from each
23 pilot site have attended. They then bring to the
24 bench a menu of short-term social service
25 interventions; these include community service

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2 directly targeting conduct associated with
3 youthful transgressions, such as graffiti, fare
4 evasion and trespass. Leveraging educational and
5 vocational programs, conflict resolution,
6 counseling and civic responsibility, these
7 alternative sentences combine with judicial
8 monitoring to create a forum for age-appropriate
9 adjudication of underage offenders that based on
10 current state law must be prosecuted in the adult
11 criminal courts rather than the family court.

12 Among the big questions are whether this
13 innovative approach works. The preliminary
14 evidence is convincing that it does. Research
15 from the Center for Court Innovation, who I know
16 you will hear from later, demonstrates that an
17 overwhelming majority of cases in the adolescent
18 diversion parts are resolved without imposing
19 criminal records or jail time, thereby avoiding
20 the potentially serious collateral consequences
21 for underage offenders. But the imposition of
22 alternative sentences is not alone the best
23 measure of policy success. The true measure of
24 success is whether these alternative procedures
25 discourage adolescents from reoffending. And thus

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2 far, research shows that they do. Compared to
3 defendants appearing in the traditional court
4 parts on felony or misdemeanor offenses, teenagers
5 appearing in adolescent diversion parts are
6 significantly less likely to be rearrested for
7 similar offenses. By both stemming the collateral
8 consequences of conviction and reducing the
9 likelihood of future offending, adolescent
10 diversion parts are substantially improving the
11 chances that participating teenagers will gain and
12 keep employment, complete their education and lead
13 law abiding lives. Adolescent diversion parts are
14 proving to be effective off ramps from the adult
15 criminal justice system, helping young offenders
16 develop and pursue life goals as productive
17 adults. Even more notable is that the adolescent
18 diversion parts are obtaining the results so far
19 within the Judiciary's existing resources. Due to
20 fiscal restraints, the Judiciary's annual budget
21 has had effectively zero growth for several years,
22 and the proposed budget for 2013 and '14 continues
23 this trend. For this reason, adolescent diversion
24 parts have relied on existing resources and staff,
25 partnering with local social service agencies and

1 non-profit providers that in this economic climate
2 also face serious funding challenges. To be
3 effective, adolescent diversion parts need
4 seamless access to alternative sentencing and
5 community supervision, which requires a close
6 partnership with local agencies and not-for-profit
7 providers. Their health in an importance sense
8 helps make or break this experiment. Expanding
9 adolescent diversion parts beyond the web of
10 governmental and community based service providers
11 can overwhelm them, and their already stressed
12 providers, and do little to serve the public
13 policy objective of redressing the cycle of
14 underage offenders. However, the adolescent
15 diversion parts are inherently a stopgap measure,
16 designed not as the ultimate judicial resolution
17 to the problem of teenage crime, but a proving
18 ground for a forward-thinking approach that
19 requires state legislation to fully implement.
20 Despite their menu of options and preliminary
21 evidence of success, adolescent diversion parts
22 remain local criminal court parts, bound to apply
23 local criminal court procedures that are not fully
24 appropriate for adolescents. So long as New York
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1 continues to prosecute 16- and 17-year-old
2 offenders as adults for even the most minor, non-
3 violent offenses, without the ability to adjust
4 appropriate cases in the manner that is routine in
5 the family court, the task of juvenile justice
6 reform will be incomplete. That is why Chief
7 Judge Lippman proposed comprehensive adolescent
8 justice reform, and it is the reason that it is so
9 important for New York to enact the proposal into
10 law. Last year, nearly 50,000 16- and 17-year-
11 olds were arrested and processed as adults.
12 Adolescent diversion parts, successful as they
13 are, were off ramps for less than 3,000 of them,
14 representing less than 6% of the potentially
15 eligible teenagers. It's a start, but we cannot
16 rest until 100% of New York's young, non-violent
17 offenders are eligible to be treated as such, and
18 all courts, social service agencies and non-profit
19 providers have the tools necessary to make these
20 off ramps meaningful, wise and safe for teenagers,
21 families and communities. In working towards
22 these goals, we welcome the council's active
23 support to appeal to our state's leaders in Albany
24 to enact the Chief Judge's Adolescent Justice
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2 Reform proposal and to ensure that New York City
3 continues to provide the necessary resource to
4 support the parts already operating. Thank you so
5 much for the opportunity to discuss this important
6 issue today. And I would certainly be happy to
7 answer any of your questions.

8 CHAIRPERSON GONZALEZ: Thank you,
9 Judge. Before we move on, I'd just like to
10 welcome Council Member Maria Del Carmen Arroyo,
11 who is on our committee. And also I would like to
12 thank and introduce Peggy Chan, to my right, who
13 is the Counsel for this Committee, and also
14 William Hongach, to my left. And we also have our
15 finance person, Nora Yahya. So, thank you for
16 being here. And I'm going to proceed with the
17 questions. Judge, how many judges have been
18 assigned to each pilot part?

19 JUDY HARRIS KLUGER: Well, there's
20 one judge in each part, nine judges. We've had
21 continuity with the judges. There was a change in
22 Brooklyn because that judge was elevated to
23 another position. But everyone's been trained,
24 and part of the real benefits of the training is
25 they all get together and discuss how each of the

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2 parts are operating, and they really learn from
3 each other and develop strategies together, in
4 addition to getting very cutting edge training on
5 things like the adolescent brain and adolescent
6 decision making.

7 CHAIRPERSON GONZALEZ: Okay. So at
8 the risk of--I think you answered the question,
9 but, the judges, how were they selected and was
10 there any characteristics or background that OCA
11 looked for?

12 JUDY HARRIS KLUGER: Well, the same
13 way we look for the judges in any of our problem
14 solving courts, people who've exhibited already in
15 the traditional parts an innovative approach,
16 people who are interested in this kind of work--
17 which is always a benefit--and of course people we
18 feel can do it. So, it is a select group. There
19 are others within our courts who could also
20 participate in this, and eventually there'll be
21 probably some changes. But as of now it's been a
22 pretty stable group.

23 CHAIRPERSON GONZALEZ: And who
24 determines whether a case is appropriate for the
25 program?

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2 JUDY HARRIS KLUGER: These were
3 created as pilot parts so we could test different
4 ways of handling the--not handling the cases, of
5 having the cases in the part based on the
6 different county. So we'll have a county like
7 Nassau where every case where there's a 16- or 17-
8 year-old who is arrested comes through that part.
9 And then we'll have some other parts where the
10 more serious cases are handled in those parts.
11 So, it really is a local decision made with the
12 DA, defense attorneys, the judge, as to which
13 cases go into the part.

14 CHAIRPERSON GONZALEZ: And Judge,
15 are there certain types of cases that are
16 automatically barred from consideration for the
17 program?

18 JUDY HARRIS KLUGER: As a general
19 rule, violent offenses, violent felonies are not
20 considered. But, again, it depends on the
21 jurisdiction. But basically these parts are for
22 non-violent offenses and low-level felony non-
23 violent offenses.

24 CHAIRPERSON GONZALEZ: And in
25 respect to the offenses, would something like an

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assault or drug possession typically be eligible?

JUDY HARRIS KLUGER: Yes, depending on the circumstances. Again, a felony assault probably not, a less serious misdemeanor assault-- it depends on the circumstances. Drug possession, basically, misdemeanor drug possession would be eligible in most of the counties.

CHAIRPERSON GONZALEZ: How does the program assess the service needs of the adolescents?

JUDY HARRIS KLUGER: Well, there will be a brief assessment in most of the jurisdictions as to what the needs of the adolescent are. I know you'll hear in greater detail from the Center for Court Innovation about some of their programs and what the assessments involve, but for example, in Nassau County the probation department does a shortened YASI assessment. That's something that's used by probation outside of New York City. And then there is an effort to tailor a disposition that leverages some of the local services for the adolescent. But in all the counties there's an effort up front to assess what the needs are.

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2 CHAIRPERSON GONZALEZ: Okay. Thank
3 you. And can you walk us through the process of
4 what happens in an adolescent court case once he
5 or she is accepted into the adolescent diversion
6 part?

7 JUDY HARRIS KLUGER: So, after an
8 assessment, the case will be called before the
9 judge and there will generally be a discussion,
10 sometimes before the case is presented to the
11 judge, with the defense counsel and the
12 prosecutor, and then the judge determines what is
13 the best resolution of this case. Many of the
14 judges ask that the parents be in the courtroom
15 when the case is call, or a relative or someone--
16 adult responsible for the child. And there's a
17 determination as to what the needs are. And then
18 generally the case will be adjourned. And if the
19 adolescent complies with the conditions of what
20 the judge sets forth, there will be a dismissal of
21 the case or a non-criminal disposition at the end
22 of the proceeding, so. And the hope is that many
23 of these youths will continue with the services
24 that were provided, even though they won't
25 necessarily have been mandated past the time

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period that the case is pending.

CHAIRPERSON GONZALEZ: Do you track the outcome of the adolescents who participated in the pilot program?

JUDY HARRIS KLUGER: Well, that's what we've been doing, and that's what the CCI study was involved with. So we've tracked what's happened, what kind of dispositions the offenders have received--and as I said, most of them are non-criminal dispositions--as well as the services provided, and whether there's been recidivism within the time period. Now, it's a relatively short time period because these parts have been opened only a year, but based on what we've seen thus far, there is a reduction in recidivism in that population as compared to others going through the more traditional court.

CHAIRPERSON GONZALEZ: Do you--and this is not part of my question, I just thought of it as we went along. Do you believe that depending on the outcomes, will that determine whether it will increase the amount of people that are in these parts--

JUDY HARRIS KLUGER: [Interposing]

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2 I think not just the--I mean, I think the outcomes
3 certainly show us that there's benefits, so we
4 would like to see more teenagers going through
5 these parts. But also we need to think about
6 what's available in the community and not to
7 overwhelm the services community. And they're
8 also doing this with existing resources. So to
9 the extent that some help could be given to the
10 local providers, that would certainly be
11 beneficial and help us in our determination of how
12 much further we can go with this. And as I said,
13 the ultimate goal really is to raise the age of
14 criminal responsibility, to have the benefits of
15 family court available to these adolescents. And
16 so these pilots show that, I think prove the point
17 that the legislation should be enacted, because
18 there is not a public safety risk to doing it and
19 certainly there's benefits to the participants.

20 CHAIRPERSON GONZALEZ: And judge,
21 what would be, I guess in my own words, the tools
22 that you would utilize to assess the service needs
23 of the adolescents?

24 JUDY HARRIS KLUGER: Well, we have
25 this short assessment that almost all the courts

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2 do, and I think the CCI people will be talking
3 about that. They've nodded their heads, so they
4 will go into it.

5 CHAIRPERSON GONZALEZ: Oh, okay.

6 JUDY HARRIS KLUGER: Yeah, we work
7 in tandem. But, they'll be going in greater
8 detail as to what kind of assessment is done. But
9 each of the courts do something to determine what
10 the needs are.

11 CHAIRPERSON GONZALEZ: Okay. Thank
12 you, Judge. I would just like to--hello? Okay.
13 I would just like to defer to Council Member Maria
14 Del Carmen Arroyo. She has a question. Thank
15 you.

16 COUNCIL MEMBER ARROYO: Thank you,
17 Madam Chair. Good morning.

18 JUDY HARRIS KLUGER: Good morning.

19 COUNCIL MEMBER ARROYO: Thank you,
20 Your Honor, for being here. The last part of your
21 testimony, you reference the legislation pending
22 in Albany. And we heard from Judge Lippman here
23 maybe a year or so ago, advancing this
24 conversation of how we deal with our young people
25 in the criminal justice system. What's your sense

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about what's happening in Albany.

JUDY HARRIS KLUGER: Oh, if I knew that answer I'd--I think it's being discussed. We're proposing the bill again. There were certain issues that came up regarding some concerns with the bill, so we have addressed those in an amended version, and there will be an effort in this session to try and get it through.

COUNCIL MEMBER ARROYO: And short of a resolution asking the assembly and the senate to pass and the governor to sign, what else should we be doing with our colleagues at the state level to encourage the advancement of this policy or legislation?

JUDY HARRIS KLUGER: Look, I mean you represent the demographics of New York City are that most of the youths, if I broke down the numbers, who are involved in these cases are from the New York City area because we have the largest population. And by saying that you see the benefits and that they should look at the benefits of what we're doing on a very limited basis without all the benefits that family court could bring to these, that it's a change whose time has

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2 come. And it's a pretty sad state of affairs that
3 New York State and North Carolina are the only two
4 states in the country--and I understand North
5 Carolina is close to changing their law.

6 COUNCIL MEMBER ARROYO: And the
7 Chair and I have not had a real conversation
8 around the issue of what's pending at the state,
9 but it seems to me, Madame Chair, that we need to
10 have a discussion about sending an encouraging
11 message to our colleagues at the state level that
12 the Chief Judge has a sense of what he's talking
13 about and that we believe that it is appropriate
14 for us as a city and as a state to amend the laws
15 to deal with what--and I think most of us and the
16 heads in the room will probably nod up and down--
17 is an individual who but for the experience of
18 being treated at a certain level in the criminal
19 justice system, they would probably come back home
20 and integrate back into community successfully and
21 with support from the community can absolutely
22 move forward in life in a very positive and
23 productive way. So, Madame Chair, I'm going to be
24 your tag team partner on sending a message to the
25 assembly. I have though--

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JUDY HARRIS KLUGER: [Interposing]
Let me just give you just one, I think, item that might be brought up. Some may say, well, you're already doing this with the adolescent diversion parts, so why do you need to change the law. The answer is, what's not available under our criminal statutes is adjustment, and adjustment is the process by which the adolescent never gets to court and the case is handled through the probation department, so they never enter the criminal court process. And that's a tool that we cannot employ in the adolescent diversion parts because the law doesn't allow it.

COUNCIL MEMBER ARROYO: Wonderful. That's good clarification. Now, only 6% of the potentially eligible teenagers have been diverted through the parts that we're talking about--3,000 of them. What is the eligibility number? Do we know?

JUDY HARRIS KLUGER: Well--

COUNCIL MEMBER ARROYO:
[Interposing] And I guess we will compare based on state law, because the state law prohibits the diversion. Do we know truly what the eligibility

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numbers are?

JUDY HARRIS KLUGER: Well, 50,000 offenders ages 16 to 17 years old were arrested last year in New York state. Now, many of the cases if they're minor offenses, they are resolved in any event without a criminal disposition, regardless of whether they go through the adolescent diversion parts or not. So, in those cases, they don't end up with a criminal record and they may get some limited services. But what the adolescent diversion parts provide is that enhanced service piece that really helps pass the criminal case. I mean, the criminal case might have the same resolution in some of the parts that are not adolescent diversion parts, but may not have the ability to funnel and direct these kids and their families to other services.

COUNCIL MEMBER ARROYO: So, do we have the capacity to handle--

JUDY HARRIS KLUGER: [Interposing]
I don't know if--

COUNCIL MEMBER ARROYO: --what would otherwise be diverted, if state law is amended?

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2 JUDY HARRIS KLUGER: Well, that
3 would--you're talking about if we raise the age.

4 COUNCIL MEMBER ARROYO: Right.

5 JUDY HARRIS KLUGER: That would
6 require resources as well, and that's up to the
7 legislature to work with the Judiciary to
8 determine what those resources are, and they are
9 working on that already. I mean, there is a cost
10 attached to it. It's not a budget neutral item.
11 But the costs of not doing it are far greater in
12 terms of what happens.

13 COUNCIL MEMBER ARROYO: Then it is
14 cost neutral, it could be cost neutral.

15 JUDY HARRIS KLUGER: No.

16 COUNCIL MEMBER ARROYO: What it
17 costs to send a young person through the system,
18 incarcerated and thereafter, there is a cost to
19 that--

20 JUDY HARRIS KLUGER: [Interposing]
21 Well, the OCFS costs, yes. But most of these kids
22 who are going through these courts are not going
23 to end up in an--luckily will not end up in an
24 OCFS facility. There are only--I mean, at last
25 count I think there were about 200 and it's

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2 probably down from there. So what we're talking
3 about is investing some funds up front to the kids
4 who are not, at least initially, bound there.

5 COUNCIL MEMBER ARROYO: Thank you,
6 Your Honor, and I look forward to the public
7 testimony. We always learn a great deal, and I
8 think certainly a conversation about what message
9 the Council can send to the state relative to the
10 legislation that the Chief Justice is looking to
11 get.

12 JUDY HARRIS KLUGER: And certainly
13 I'm available to you as well as those working
14 specifically with the legislature on this. So
15 please don't hesitate to call on me and others.

16 COUNCIL MEMBER ARROYO: I'm sure
17 the Chair will not. Thank you, Madame Chair.

18 JUDY HARRIS KLUGER: Thank you very
19 much.

20 CHAIRPERSON GONZALEZ: Thank you,
21 Council Member Arroyo. And I want to say thank
22 you, Judge, for your testimony today and also just
23 for the record, Chief Judge Lippman has done an
24 incredible job in moving legislation and trying to
25 understand the need for our youth in our city of

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2 New York, and I think everything you said was
3 right on point, and I'm very proud to have you at
4 our hearing today. Thank you.

5 JUDY HARRIS KLUGER: Thank you.
6 Thank you so much for inviting me.

7 CHAIRPERSON GONZALEZ: Dawn
8 Saffayeh from Administration for Children's
9 Services.

10 DAWN SAFFAYEH: Good morning Chair
11 Gonzalez and members of the Committee on Juvenile
12 Justice. I am Dawn Saffayeh, Deputy Commissioner
13 for the Division of Policy, Planning and
14 Measurement at the New York City Administration
15 for Children's Services. With me today is
16 Jacqueline Sherman, Associate Commissioner from
17 the Division of Youth and Family Justice. Thank
18 you for providing us with the opportunity to
19 address the proposed legislation related to
20 reporting data on youth in New York City's
21 juvenile facilities. Since the 2010 merger of the
22 Department of Juvenile Justice and the
23 Administration for Children's Services, ACS has
24 worked--

25 CHAIRPERSON GONZALEZ: [Interposing]

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Excuse me. Could you speak closer to the mic?

DAWN SAFFAYEH: I'm sorry.

CHAIRPERSON GONZALEZ: Thank you.

And before you begin, I just want to say that also Jacqueline, Jacqueline Sherman from ACS, thank you. Welcome.

DAWN SAFFAYEH: Since the 2010 merger of the Department of Juvenile Justice and the Administration for Children's Services, ACS has worked diligently to collect and track detention data. We report juvenile detention data in our Flash Report, which graphically illustrates monthly trends in select child welfare, juvenile justice and early care and education statistics, and in our Strategic Management Report, which we produce quarterly. We produce both of these reports on our ACS website. In addition, we provide City Council reports quarterly, which include incident and demographic data, as well as provide data that is included in the Mayor's Management Report, which is mandated by the City Charter and produced biannually, both of which are also posted on our website. Finally, ACS produces on an annual basis a Community Snapshots Report,

1
2 which includes juvenile detention statistics
3 broken down by community district. We take our
4 responsibility to collect and share data very
5 seriously and we support the Council's proposed
6 legislation to extend reporting requirements to
7 our youth in placement, both non-secure and
8 limited secure, on the same schedule that we do
9 for youth in detention. As we planned for Close
10 to Home, ACS recognized the need to broaden our
11 data collecting to include placement statistics as
12 well as to develop quality assurance mechanisms.
13 As such, we created Juvenile Justice Planning and
14 Measurement unit that will measure provider
15 performance and program outcomes for our Juvenile
16 Justice Placement Programs. ACS is committing to
17 collecting and providing the same demographic data
18 and incident information for our placement
19 population that we presently provide for
20 detention. While we agree that collecting and
21 reporting the juvenile placement data is
22 important, the proposed legislation fails to
23 account for the fact that New York City will not
24 be providing limited secure placement services
25 until fall 2013. Given that non-secure placement

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2 went into effect in September 2010², and the
3 proposed legislation requires the first
4 demographic data report to be provided to the
5 Council by September 30th, 2013, the proposed
6 legislation appears to contemplate a one-year
7 implementation period for non-secure prior to ACS
8 reporting data. We therefore request that the
9 Council provide a similar implementation period
10 for limited secure placement and the reporting
11 requirements date for limited secure placement
12 data to commence in fall 2014. Similarly, the
13 proposed legislation states that the incident
14 report data for non-secure placement could be
15 required as soon as May 2014. Given that the
16 demographic data contemplates a year grace period,
17 we would similarly request a one-year
18 implementation period for incident reporting to be
19 extended to September 2013. In addition to our
20 support for the proposed legislation, I would like
21 to take this opportunity to update the Council on
22 the work ACS has done over the past few months
23 with respect to our juvenile justice programs.
24 Recently we testified before the Council on our
25 Resident Care Advocacy program. As we mentioned

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2 during that hearing, with the Close To Home
3 initiative currently underway, ACS has recognized
4 the need for a more robust oversight mechanism to
5 adequately address young people's needs and to
6 continuously monitor and improve the safety and
7 strength of our programs in both detention and
8 placement. We therefore created the Juvenile
9 Justice Oversight Board, that will oversee both
10 secure and non-secure detention as well as non-
11 secure and limited secure placement. The Board
12 will analyze the data that we collect, among a
13 number of other tasks, and discuss their findings
14 with agency officials. We believe that this will
15 help us to assess and, where needed, approve the
16 conditions of our detention and placement
17 facilities. ACS will also be hiring two
18 ombudspersons to augment our existing resident
19 care advocacy program. The role of the
20 ombudspersons will be to ensure that all youth
21 understand their right to report and pursue a
22 grievance and the process for doing so. We expect
23 that the ombudspersons will inform the work of the
24 board by participating in meetings and raising
25 issues that are brought to their attention with

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2 board members. The deadline for the Juvenile
3 Justice Oversight Board membership applications is
4 today, and we look forward to updating the Council
5 as we implement the Oversight Board. As the
6 Council knows, phase one of Close to Home has been
7 underway since this past September. Once it is
8 fully operational, we will have the capacity to
9 serve approximately 391 non-secure placement
10 youth. We released the request for proposals for
11 the after care system last November, and are
12 currently evaluating proposals. We expect
13 contracts to be awarded in late April and that
14 contracts will be awarded on July 1st, 2013.
15 Currently we have 231 youth in active non-secure
16 placement care. ACS is planning for the second
17 phase, limited secure placement, which will begin
18 Fall 2013. Like non-secure placements, young
19 people in limited secure settings will receive a
20 full range of services and supports, however,
21 limited secure placements will have more
22 restrictive features to ensure the safety of
23 residents, program staff and communities. ACS has
24 hosted five community forums to obtain the
25 public's feedback on limited secure placement, and

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2 we plan to distribute the draft plan for public
3 comment in early March. Pursuant to the
4 legislation, after we release the draft plan, ACS
5 will also hold five public hearings this spring to
6 obtain public comments. We will incorporate the
7 feedback we receive from the public into the plan,
8 which we will then submit to OCFS for review and
9 approval. Similar to the procurement process for
10 non-secure placement, for limited secure placement
11 ACS will issue a negotiated acquisition seeking
12 highly qualified providers with extensive foster
13 care and juvenile justice experience to provide
14 services at an expected nine to eleven residential
15 sites within the five boroughs or close to New
16 York City. We plan to begin accepting youth into
17 limited secure placement beginning in fall 2013
18 and have an anticipated capacity of 158 youth.
19 Limited secure facilities will have multiple
20 safety and security measure, both to protect
21 residents and to ensure the safety of the
22 surrounding community that may include things like
23 designated entry and exit points, full perimeter
24 lighting, locked doors and windows, security
25 cameras and closed circuit television monitoring.

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2 We will seek to avoid frequent transportation of
3 youth in and out of the facilities by providing
4 most services onsite. Some of the onsite services
5 will include medical, dental and mental health
6 services, counseling in individual meeting rooms,
7 space for family attorney visits and conferences,
8 indoor recreation space, outdoor yard space within
9 the facility's property and education. WE will
10 have a rich direct staff ratio of one staff for
11 every three youth, and in each facility we'll have
12 a staffed control room operating 24-7 that
13 controls facility entry and exits in response to
14 emergencies. In addition, providers will be
15 required to create community advisory boards that
16 will meet quarterly. These groups will consist of
17 local residents, faith-based organizations, civic
18 groups and other community members. This is an
19 exciting time for children's services and our
20 juvenile justice programs. We are grateful for
21 all of the support of the Council as we continue
22 to strive to improve services for the city's most
23 vulnerable young people. I will now take your
24 questions.

25 CHAIRPERSON GONZALEZ: Thank you so

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2 much. Before I begin the line of questioning, I
3 just want to say that Council Member Debbie Rose,
4 this is her--she's the lead on intro 981. She
5 could not be here today, though she wanted to be
6 here. She had a death in her immediate family.
7 Her mother passed, so I just want to say our
8 condolences to her as well as, you know, good
9 work. So, we're going to move on with
10 questioning. Has ACS been recording indicators
11 outlined in intro 981 with respect to non-secure
12 placements on a computerized database? If so,
13 what are these indicators?

14 DAWN SAFFAYEH: Yes. We have been
15 recording the indicators. Some of them are
16 recorded by the providers. There are a couple of
17 different computer systems that are being used,
18 but we are recording--there's actually three
19 different systems that are being used, but we're
20 recording all incidents. So, staff-on-staff
21 incidents, youth-on-youth. But I guess I could
22 answer by saying that we are recording everything
23 that is in the proposed legislation right now.

24 CHAIRPERSON GONZALEZ: Does ACS
25 have the appropriate staffing level to comply with

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the recording requirements in intro 981?

DAWN SAFFAYEH: Yes, we do.

CHAIRPERSON GONZALEZ: With the implementation of Close To Home, do you think there will be instances where youth will be transferred from a secure OCFS placement facility to an ACS non-secure or limited secure placement facility or vice versa? Does ACS track such data?

DAWN SAFFAYEH: Maybe on a--I'm actually not sure.

JACQUELINE SHERMAN: I think that our anticipation is that transfers from the--once we fully implement the Close to Home and ACS is in control of limited and non-secure placement, that transfers between limited secure placement and secure placement would be exceedingly rare to we don't anticipate them occurring. So, I can't give you a firm answer to whether there will be step-downs from secure placement to limited secure placement. It is a possibility.

CHAIRPERSON GONZALEZ: Would it be possible for you to track that data?

JACQUELINE SHERMAN: Certainly. If modifications do occur, absolutely.

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2 CHAIRPERSON GONZALEZ: Okay. Thank
3 you. What is the protocol on staff for when a
4 fight or altercation happens between juveniles in
5 a non-secure placement facility? Is it the same
6 protocol that's employed in both detention and
7 placement facilities?

8 JACQUELINE SHERMAN: Our protocol
9 is that our staff follow up with the--our ACS
10 placement and permanency specialists follow up
11 immediately with our provider staff to identify
12 the drivers of the incident and what steps have
13 been taken, what steps were taken to address the
14 incident as it occurred, and what steps are taken
15 in light of the incident to follow up.

16 CHAIRPERSON GONZALEZ: And are the
17 parents notified when a juvenile has been in a
18 fight or altercation?

19 JACQUELINE SHERMAN: Our providers-

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21 CHAIRPERSON GONZALEZ:
22 [Interposing] If so, how are they notified?

23 JACQUELINE SHERMAN: Our providers
24 are in contact with parents.

25 CHAIRPERSON GONZALEZ: So the

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families definitely are notified.

JACQUELINE SHERMAN: It is our expectation that the families are notified, yes.

CHAIRPERSON GONZALEZ: What are the procedures regarding the use of room confinement? Are they the same procedures for both detention and placement facilities? How do facilities' staff determine whether and for how long a youth should be confined to a room?

JACQUELINE SHERMAN: We don't use room confinement in non-secure placement.

CHAIRPERSON GONZALEZ: Okay. Are there any questions? Council Member? Okay. Well, thank you so much for your testimony, and we look forward to working with you. Julian Adler, Center for Court Innovation, and Nancy Ginsburg, Legal Aid Society, please step forward. Thank you.

JULIAN ADLER: Good morning, Chairperson Gonzalez and members of the Committee. My name is Julian Adler and I'm the Project Director of the Red Hook Community Justice Center multi-jurisdictional community court, located in the Red Hook section of Brooklyn. I'm here today

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2 on behalf of the Center for Court Innovation, a
3 public-private partnership that works with courts,
4 government agencies and local communities to
5 reduce crime, assist victims, and increase public
6 confidence in justice. Specifically, I want to
7 share with the members of the committee
8 information relative to the progress of the
9 adolescent diversion parts in criminal courts
10 throughout the five boroughs, and provide a window
11 into how these pilot court parts operate. On
12 January 17th, 2012, New York State Chief Judge
13 Jonathan Lippman established a pilot adolescent
14 diversion program, ADP in nine counties including
15 the five boroughs of New York City. The program
16 established specialized court parts that hear the
17 cases of 16- and 17-year-old defendants, in most
18 instances focusing on those charged with
19 misdemeanor offenses. In an effort to control
20 costs and leverage best practices, ADP built upon
21 existing programs rather than reinventing the
22 wheel, with a particular focus on New York City's
23 network of community courts and community-based
24 programming operated by the Center for Court
25 Innovation. The ADP initiative seeks to apply a

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2 rehabilitative developmentally appropriate
3 philosophy and approach to late adolescent
4 criminal behaviors, to reduce the use of
5 conventional criminal penalties, and to achieve
6 these benefits without jeopardizing public safety.
7 All participating defendants receive a clinical
8 screening and or full assessment, age and case
9 appropriate services, rigorous compliance
10 monitoring, and in most instances non-criminal
11 case outcomes should they complete assigned
12 services. Court ordered services vary widely by
13 county, ranging from several sessions of community
14 service, individual counseling, or family
15 mediation, to three to six months of drug or
16 mental health treatment or educational vocational
17 programming. These differences notwithstanding,
18 all counties have succeeded in identifying
19 adequate community services and resources to
20 handle ADP referrals. Notably, by keeping case
21 resolutions proportionately similar to preexisting
22 practice in criminal courts, the ADP initiative
23 does not engage in net widening, whereby other
24 diversion programs have occasionally been known to
25 enroll a population that might otherwise face

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2 lighter penalties in the preexisting status quo.
3 One of the goals of the pilots is to provide age
4 appropriate services to these young people without
5 exposing them to criminal records that could
6 affect their future opportunities to ensure
7 employment, education, or housing. And of course
8 the hope is that in linking young people to these
9 services, and monitoring compliance with court
10 mandates, they could avoid jail. The selection
11 criteria for the respective ADP pilots varies
12 across the boroughs. For example, all pilot
13 counties accept misdemeanor cases, however
14 Brooklyn considers all misdemeanor charges,
15 excluding only those cases alleging intimate
16 partner violence, while Manhattan tends to limit
17 eligibility to a narrower range of quality of life
18 offenses, taking a case-by-case approach to all
19 other misdemeanor charges. Similarly, in Queens
20 and Staten Island, cases are only ADP eligible if
21 they survive arraignment. In other words,
22 continue beyond their first court appearance,
23 whereas in the Bronx and two community courts
24 respectively located in Red Hook, Brooklyn, and
25 Midtown, Manhattan, ADP sentences can be fashioned

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2 at arraignments. Beyond misdemeanors, Queens
3 accepts select felony charges and the Bronx
4 accepts non-criminal violations. To the extent
5 practicable, ADP protocols are designed to obviate
6 the need for parental or guardian consent, though
7 of course no services are ever provided absent the
8 express consent of defense counsel. Typically,
9 for cases with short-term mandates, only a brief
10 screening and intake process is conducted, and
11 therefore parental or guardian consent is not
12 required. However, longer term mandates
13 invariable require a more comprehensive clinical
14 assessment at the outset to determine the
15 appropriate course of intervention, which does
16 require parental or guardian consent, and ideally,
17 parental or guardian involvement in that process.
18 Although ADP is still in its infancy, the
19 preliminary results are encouraging. Across all
20 nine counties, 1,302 cases enrolled in the first
21 six months of operations, furthermore available
22 court data indicates that as of the end of 2012,
23 the total enrollment exceeded 3,000 cases. The
24 vast majority of ADP participants are compliant,
25 with four and five successfully completing

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2 mandated services and resolving their cases
3 without criminal convictions and the attendant
4 collateral consequences. Importantly, ADP
5 participation does not jeopardize public safety,
6 and in fact, produces a significantly lower
7 rearrest rate for new felonies, 8% versus 10%.
8 Further analysis indicates that ADP participation
9 is most effective, most effective, with high-risk
10 youth. Thus, consistent with prior research, the
11 ADP experience in New York City suggests that
12 public safety can be maximized through policies
13 that offer alternative services to youth who are
14 at higher risk for reoffending. As the project
15 director in Red Hook, I directly oversee
16 Brooklyn's ADP pilot. I'd like to briefly walk
17 you through how the process works in Brooklyn and
18 then provide a case example. Brooklyn ADP cases
19 can originate at both the Kings County Criminal
20 Court and the Red Hook Community Justice Center,
21 which hears misdemeanor cases from three police
22 precincts in Southwest Brooklyn, the 76th, which
23 includes Red Hook and Carroll Gardens, the 78,
24 which includes Park Slope and the new Barclay's
25 Center, and the 72, which covers Sunset Park and

1 Windsor Terrace. If the case originates at Kings
2 County Criminal Court, the matter is initially
3 adjourned to a specialized ADP part in the
4 downtown courthouse. This specialized part is
5 staffed by clinicians from Red Hook one afternoon
6 per week, including an ADP dedicated master level
7 social worker. And the goal of the part is to
8 reach a resolution that includes social and or
9 community service and that will result in a non-
10 criminal disposition. For lower level offenses,
11 the case is often resolved in a single hearing.
12 For more serious offenses, the case will be
13 adjourned so that the defendant and his or her
14 parent or guardian can take part in a
15 comprehensive psychosocial assessment process in
16 Red Hook. Red Hook's assessment process is
17 holistic in nature, and it is informed by trauma
18 informed and strength-based approaches. For
19 example, positive youth justice theory. Based on
20 the results of the assessment, clinical staff
21 present recommendations on the next court date,
22 which serve as the basis for potential case
23 disposition. If a disposition is reached, all
24 services are coordinated and provided in Red Hook,
25

1
2 and the case is monitored for compliance by Red
3 Hook's presiding judge, Alex Calabrese. If an ADP
4 case originates in Red Hook, the process is
5 substantially similar, though it takes place
6 entirely in Red Hook from inception. To
7 illustrate, consider the case of Vincent, age 17,
8 who came through Brooklyn's downtown criminal
9 court in March of 2012 on a charge of menacing
10 with a weapon, his fourth arrest in less than a
11 year and a half. He was identified as an
12 appropriate case for a clinical assessment, which
13 upon the consent of his attorney was conducted by
14 a Red Hook social worker the following week.
15 Vincent presented as a reserved yet markedly self-
16 aware adolescent. It was revealed during the
17 assessment that Vincent's home life was stressful
18 and that his relationship with his mother was
19 strained due to her lifelong struggles with mental
20 illness. Vincent often had to stay home to care
21 for her, causing him to fall behind in school.
22 Vincent's father, who also participated in the
23 assessment process, described his own struggles
24 with physical disabilities that prevented him from
25 working. As a result, Vincent's family

1 experienced a great deal of financial hardship.
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3 Amidst these difficulties, Vincent also described
4 his love for art, specifically drawing. As his
5 case progressed, he would often bring in original
6 artwork to show his social worker. At the next
7 court date, the assessing social working
8 recommended eight sessions of individual
9 counseling at a community based licensed mental
10 health clinic, a six-week art program for court-
11 involved youth, called Young New Yorkers, YNY, and
12 a consultation with a liaison from the New York
13 City Department of Education. Through counseling,
14 Vincent was able to work on some of the challenges
15 he faced at home. He also displayed a high level
16 of engagement throughout the YNY art program,
17 which afforded him an opportunity to meaningfully
18 explore the consequences of his actions through
19 various creative media. Over the course of the
20 case the Red Hook social worker stayed in close
21 contact with Vincent's father and offered services
22 to the family. Upon completing all of the court
23 ordered services, Vincent's case was successfully
24 resolved with a non-criminal disposition. And,
25 like all young people who come through Red Hook,

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2 he was offered opportunities to continue his
3 involvement in Red Hook's programs and services on
4 a voluntary basis. To date, Brooklyn's ADP pilot
5 has served 486 youth cases. Again, as I mentioned
6 before, the specific services vary across the ADP
7 pilot sites based on the availability of resources
8 and case volume. The ADP initiative is still
9 early into its second year. The results as
10 indicated are promising. The participants are not
11 posing any greater risks to public safety, and in
12 fact, the risk of reoffending has been reduced.
13 The overwhelming majority of participants have
14 gone through the parts without acquiring criminal
15 records, and many have received services that will
16 help them on a path to law abiding contributing
17 futures. The Center for Court Innovation will
18 soon be publishing a six-month study of all the
19 pilot sites and will be conducting ongoing
20 research as the pilot continues. We are excited
21 about the preliminary findings and look forward to
22 returning to the Council in the future to report
23 on ADP's continuing progress. At this time I
24 would be happy to take any questions from the
25 committee. Thank you.

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NANCY GINSBURG: Is it working?

Yes. Good morning. I am Nancy Ginsburg of the Legal Aid Society. I submit this testimony on behalf of the Legal Aid Society and I want to thank Chairwoman Gonzalez as well as the Committee on Juvenile Justice for inviting our comments. We appreciate your attention to this area of vital concern to our city's teenagers and their families. This testimony is focused on the aspect of this hearing that is focused on the oversight of the adolescent parts in the criminal courts. The Legal Aid Society is also providing joint testimony today with the Correctional Association on intro 981. In the fall of 2011, Chief Judge Lippman called for a reform of the way in which New York prosecutes 16- and 17-year-olds. First, he requested that the New York State Permanent Sentencing Commission develop a legislative proposal raising the age of criminal prosecution for certain offenses to the age of 18. Recognizing that the legislative process can be lengthy, Judge Lippman also announced that he would create an adolescent diversion program within the courts. The program consists of nine

1 pilot programs throughout the state. Selected
2 cases are assigned to specially trained judges who
3 have access to age appropriate services to use in
4 sentencing plans. The adolescent diversion
5 program has two principal purposes. The first
6 goal is to improve the court system response to
7 16- and 17-year-olds charged with criminal
8 activities. The program connects these courts to
9 an expanded array of services, with the goal of
10 addressing the needs of the youth, while
11 preventing them from having a criminal record and
12 the collateral consequences of a conviction. The
13 second goal, as Judge Kluger spoke about, is to
14 provide a courtroom laboratory where it can be
15 examined whether a less punitive approach to
16 adolescents delivers better results than our
17 current system. The Legal Aid Society represents
18 adolescents in all five borough adolescent parts
19 in New York City. These parts are in the criminal
20 court and hear misdemeanor offenses. The
21 practices and outcomes vary from borough to
22 borough since the dispositions that depend on non-
23 criminal plea offers must be made by the District
24 Attorneys' offices. Participation in the program
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1
2 is voluntary, and we have seen the best results
3 for clients charged with more serious offenses
4 within the misdemeanor range, and with those youth
5 with repeated system contacts. The clients agree
6 to assessments and a service plan based on input
7 by the Judge, defense counsel, and the prosecutor,
8 and sometimes a service provider, depending on the
9 borough. If a youth completes a service plan, she
10 or he generally receives an adjournment in
11 contemplation of dismissal, or a plea to a
12 violation. In some cases, the Judge will calendar
13 the case a few times prior to completion of the
14 service plan to encourage the youth to stay on the
15 right path. We see the benefits of these parts as
16 engaging court staff, the lawyers, and the bench
17 in a process which openly acknowledges that
18 adolescents are different. The youth are
19 addressed individually, as opposed to what happens
20 in a regular criminal court part, and their
21 progress is acknowledged. If their parents are in
22 attendance, the judge may check in with them to
23 make sure that their needs are being met and that
24 the youth is following the rules set by the court.
25 The teenagers generally respond well to this

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2 encouragement and engagement and are more
3 motivated to comply with the service plans in a
4 setting like this. When our adolescent clients
5 feel the court players are invested in their
6 success, they tend to be more successful and have
7 a more positive view of the court process.

8 Additionally, the court players have learned more
9 about adjudicating adolescent cases, as well as
10 setting realistic expectations for outcomes. The
11 process of developing relationships with community
12 service providers has benefitted the clients and
13 the courts. Despite some benefits of the
14 adolescent parts, we do have some concerns.

15 Because the law has not yet changed to raise the
16 age of criminal responsibility, the prosecutors
17 retain almost exclusive control over the plea
18 offers in the adolescent parts, and the judges to
19 not have the authority to fashion practical
20 resolutions of cases that they would have under
21 the Chief Judge's proposal to raise the age.

22 Additionally, due to this control issue, we have
23 seen net widening where adolescents in traditional
24 criminal court parts would receive the same plea
25 offer with fewer service requirements than their

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2 counterparts in the adolescent parts in some
3 counties. Moreover, in the absence of the change
4 in the law that the Chief Judge has proposed,
5 teenagers in these adolescent parts are still left
6 with the indelible mark of a criminal arrest that
7 may affect future employment and opportunities.

8 I'd like to address the earlier question as to the
9 cost issue associated with raising the age. It is
10 very, very expensive to prosecute teenagers the
11 way they are prosecuted now, particularly if it is
12 not their first offense and they are put through
13 the system. New York City pays for 24-hours of
14 incarceration, if things are working well, before
15 they see a judge. We pay for police staff to
16 monitor those teenagers before they're seen by the
17 court, then we pay for court officers to staff the
18 part, we pay for a judge to hear the case, we pay
19 for the prosecutor's office in every county to
20 process those cases. We pay for defense counsel.
21 And many, many of those particularly low-level
22 cases, once the age is raised, would be adjusted
23 and would never, ever go through the court system.
24 And so, although there may be an upfront cost in
25 the very beginning, in the end it is extremely

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2 likely that it will be a cost saving movement. In
3 conclusion, the Legal Aid Society believes that
4 the adolescent parts are a step in the right
5 direction to treating adolescents in an age
6 appropriate manner in the court system. We are
7 optimistic that the outcomes of these pilot
8 courtrooms will help inform the legislative
9 process to raise the age of criminal prosecution
10 in New York, however, the time has come in New
11 York to reassess what is the appropriate response
12 to adolescent offending in light of the advances
13 in society's understanding of adolescent
14 development. Social science and brain science and
15 the highest court in the United States, multiple
16 times now, have all recognized that adolescents
17 are different than adults and should be treated
18 that way by the law. The time has come for New
19 York to come into line with the other 48 states in
20 this country that set the age of majority for
21 purposes of criminal prosecution at age 18. Legal
22 Aid Society thanks you for the opportunity to
23 speak about this issue.

24 CHAIRPERSON GONZALEZ: Thank you.

25 I'd like to welcome Council Member Fernando

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2 Cabrera, who is a member of the Committee. Thank
3 you. Okay. So, we're going to move on. And I'd
4 like to ask you a question as far as the legal aid
5 issue. Have you received any feedback from
6 adolescents and their families about the program?

7 NANCY GINSBURG: The adolescents
8 who have taken advantage of the services have
9 generally been very, very positive about the
10 outcomes. There have been some teenagers who have
11 been reconnected with educational services. There
12 have been some clients who came in who had some
13 amount of conflict with their families and the
14 counseling services that were made available to
15 them were helpful in resolving those conflicts.

16 CHAIRPERSON GONZALEZ: So I would
17 imagine that's also part of what you've learned.
18 But in respect to the pilot program, which is
19 still a work in progress, have you learned any
20 other lessons or do you have any recommendations
21 as to how the pilot parts might be improved going
22 forward? And I know you stated some of the things
23 in your testimony, but is there anything that
24 you'd like to...?

25 NANCY GINSBURG: Well, our ideal

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2 would be that each county prosecutor's office
3 would fully buy into the process. Because their
4 misdemeanor parts, it's our position that given
5 the way that the legislation is likely to be
6 proposed based on last year's proposal, that all
7 misdemeanors would be included in the legislative
8 proposal. There has been a lot of discussion over
9 the past year about serious misdemeanors and not
10 serious misdemeanors, but the legislative proposal
11 does not differentiate between those. And since
12 we have seen much greater success in these parts
13 with the kids who have had more activity with the
14 system and they seem to be more willing to engage
15 with services, we would like to see an opportunity
16 for those teenagers who seem to be in the most
17 need to have access to the parts, A, and to the
18 services. And in some counties we are having
19 trouble getting those clients into those
20 courtrooms.

21 CHAIRPERSON GONZALEZ: Okay. Well,
22 thank you.

23 NANCY GINSBURG: Thank you.

24 CHAIRPERSON GONZALEZ: First of
25 all, I want to say about the court innovation

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2 program that I am incredibly grateful that we have
3 one in Red Hook, and that's my district, and I
4 kind of lit up a lot--although I love this
5 committee anyway and all different areas of it--
6 but Judge Calabrese is incredible. You're doing a
7 terrific job there.

8 JULIAN ADLER: Thank you.

9 CHAIRPERSON GONZALEZ: I mean, our
10 community is a beautiful community and Red Hook is
11 a really up and coming and people--again, I always
12 say this, but people are just looking to move to
13 our district. I love it. So, I'm grateful that
14 our children are having the opportunity they
15 deserve, and I thank you for the programs.

16 JULIAN ADLER: Thank you.

17 CHAIRPERSON GONZALEZ: Now, what
18 happens if a parent or guardian is not available?
19 Would an otherwise eligible youth not be able to
20 take advantage of ATP?

21 JULIAN ADLER: Right. So, it
22 depends on the case. If, as I mentioned in my
23 testimony, if it's a fairly lower level case
24 that's going to be resolved with short-term
25 services we have developed protocols so that a

1
2 young person would be eligible to participate, and
3 we would just be very mindful of kind of the
4 limits of intervention. We have explored on a
5 case-by-case basis situations where--and it's sort
6 of an open question as to whether a defense
7 attorney may be in a position to consent to
8 service in the absence of a parent or guardian,
9 but that's still an open question that really
10 needs to be explored. You know, ideally we would
11 make services available to every young person who
12 is appropriate for the program, and I would echo,
13 as I did in my testimony, Nancy's emphasis on
14 including higher risk cases. Because the research
15 will show, that's coming out, that we do some of
16 our best work with high-risk youth and they
17 benefit the most. And it's really good public
18 policy to offer services to high-risk youth. But
19 even more, in cases of high risk youth there could
20 be a situation where it's hard to get consent and
21 I think a question to be explored is to what
22 extent defense counsel would be willing and able
23 to consent to services on a full or limited basis
24 to resolve a case.

25 CHAIRPERSON GONZALEZ: Okay. My

1
2 thought process immediately goes to assigning
3 someone. I don't know, I mean this is something
4 for the future, because I want to be able to know
5 that our youth are being offered every opportunity
6 to be able to make changes. I don't know, that's
7 very legal. And so I guess that's something that
8 maybe you could look into--

9 JULIAN ADLER: [Interposing] And
10 just to, you know, assuage you, we've had
11 tremendous success reaching either parents or
12 guardians. We put a lot of emphasis on that work.
13 That is a part of the expectation for those social
14 workers who work in the ADP program, that a part
15 of their job is to do everything that they can,
16 working in collaboration often with the Legal Aid
17 Society, to track down a parent or guardian. And
18 we've been very successful. It's been the rare
19 case where a young person is excluded on this
20 basis.

21 CHAIRPERSON GONZALEZ: Right. And
22 I think that definitely is good for Red Hook. But
23 in the entire city as we move with these court
24 innovation programs--

25 JULIAN ADLER: [Interposing]

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Agreed.

CHAIRPERSON GONZALEZ: --it might be difficult in other areas.

JULIAN ADLER: Agreed.

CHAIRPERSON GONZALEZ: Thank you. And then I also would like to know, how does the court monitor the adolescents' compliance with services?

JULIAN ADLER: So, compliance is rigorously monitored by--in the first instance by the social service staff, who work on ADP. If a young person is enrolled in treatment in a community-based program, compliance is monitored at least on a weekly basis--again, I'm speaking for Brooklyn, but I think this is generalizable--and also through court appearances. So, in Brooklyn, all ADP youth are monitored by Judge Calabrese. The frequency of those hearings is determined in collaboration with counsel based on the severity of the case and how the young person is doing. We also make tremendous efforts to reach out to young people proactively, if they're starting to struggle with compliance, before a situation would ever arise where a bench warrant

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2 would be issued, for example. So, it's not a zero
3 sum game. Staff are working very aggressively to
4 keep in touch with programs and young people, and
5 to bring them in voluntarily to get them back on
6 track before they're out of compliance.

7 CHAIRPERSON GONZALEZ: And again, I
8 just want to sort of do a shout out to Judge
9 Calabrese, because I have to say, that there are
10 two top people that I can think of immediately,
11 Judge Calabrese is one of those folks. And also
12 DA Hynes, who I have seen in public. And young
13 people that have gone and have been prosecuted
14 through him and his office, they love him.
15 They're hugging him. And the same thing with
16 Judge Calabrese. I mean, they see him and they
17 learned their lesson and it's incredible. So, I
18 think Judge Calabrese and DA Hynes can certainly
19 train folks in that area.

20 JULIAN ADLER: Agreed.

21 CHAIRPERSON GONZALEZ: Okay. Are
22 there adequate community services and resources to
23 handle the referrals from the pilot program?

24 JULIAN ADLER: Yes. And as I
25 indicated in the testimony we have found that in

1
2 every county--again the services look different
3 and the resources are different, but we have not
4 encountered sort of substantial obstacles to
5 services. We've also been creative. So an
6 example would be in Brooklyn, if for example we
7 need to work with a family to obtain health
8 insurance and we don't want to let that delay
9 proceedings or a young person's ability to
10 participate, so where we need to, social workers
11 employed by the Center for Court Innovation will
12 provide interim services so that the case can
13 proceed until other obstacles have been overcome,
14 like insurance or geography.

15 NANCY GINSBURG: I will just add a
16 friendly amendment to that, because some counties
17 are not as resourced as other counties. So, in
18 counties like Staten Island, it's much more
19 difficult to come up with service plans that meet
20 every child's need, and Queens was much more of a
21 struggle than Brooklyn or Manhattan in finding
22 appropriate service, the appropriate range of
23 services.

24 CHAIRPERSON GONZALEZ: And I agree
25 with that, because the strengths and the thing

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2 that are happening in one area, and it has to
3 balance out and we have to get it for the entire
4 city. You're right. Okay. What percentage of
5 participants would you say are complaint with the
6 services?

7 JULIAN ADLER: So, approximately
8 80%.

9 CHAIRPERSON GONZALEZ:
10 Approximately, okay. And now we know that the
11 program is still in its early stages, but are you
12 tracking recidivism rates for the adolescents in
13 the program? And are there any preliminary data
14 that you can share with us? Recidivism.

15 JULIAN ADLER: Yes.

16 CHAIRPERSON GONZALEZ: I know.
17 It's a little tongue tying.

18 JULIAN ADLER: Yeah, just to go
19 back to my testimony, the Center for Court
20 Innovation will be releasing a rigorous study of
21 the first six months of implementation, but what
22 that study finds is that a lower rearrest rate for
23 new felonies. So, 8% versus 10%, which is
24 significantly lower. For misdemeanors we find
25 that there hasn't been an increase or decrease.

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They've remained stable, but for more serious offending we have seen a reduction in recidivism.

CHAIRPERSON GONZALEZ: Okay. Well, thank you very much for sharing your testimony, and we will continue to work together.

JULIAN ADLER: Thank you.

CHAIRPERSON GONZALEZ: Thank you. Gabrielle Prisco and Christine Bella from the Correctional Association and Legal Aid Society, which Christine Bella is from Legal Aid, I believe. Right? Okay. All right. Beth Powers, Children's Defense Fund, and Judy Yu from Correctional Association of New York. Thank you.

GABRIELLE PRISCO: Hi. My name is Gabrielle Horowitz Prisco. I'm the Director of the Juvenile Justice Project of the Correctional Association of New York, and we're presenting joint testimony.

CHRISTINE BELLA: And good morning. My name is Christine Bella. I'm a staff attorney with the Legal Aid Society's Juvenile Rights Practice. I'll just start by introducing the Legal Aid Society to you. As you heard from Nancy Ginsburg, Legal Aid Society is the nation's

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2 largest and oldest provider of legal services to
3 poor families and individuals. The Legal Aid
4 Society Juvenile Rights practices in particular
5 provides comprehensive legal services to young
6 people in New York City's family courts, in both
7 child welfare and juvenile delinquency proceedings
8 and other related proceedings, and it is that
9 experience that we bring to the City Council today
10 in terms of our prospective.

11 GABRIELLE PRISCO: So, thank you,
12 Chairwoman Gonzalez, thank, you committee members.
13 So I want to say that we are really thrilled to
14 hear that the Administration for Children's
15 Services is supporting very important data
16 transparency bill. Juvenile detention, as the
17 Council has heard about and knows about, and by
18 detention I mean children inside closed facility,
19 really demand public transparency to ensure that
20 children are safe and that communities and
21 families and public and stakeholders outside of
22 government have a chance to participate in what's
23 happening inside facilities. I want to use the
24 bulk of our testimony to address the
25 implementation issue that was raised by ACS. ACS

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2 requested a one-year implementation period. The
3 Legal Aid Society and the Correctional Association
4 urge the Council to limit any implementation
5 period for incident data to 90 days. ACS
6 testified that because the annual demographic
7 report is not required until September 30th of
8 2013, the Council may have contemplated a one-year
9 implementation period. I would point out there's
10 a significant and meaningful distinction between
11 an annual demographic report and quarterly
12 incident data report. So the fact that the
13 Council gave ACS a year in which to compile an
14 annual demographic report does not mean that we
15 need a year to compile and release quarterly
16 incident data report. And I would point out that
17 ACS already has the data collection definitions
18 and mechanisms in place, as the Council is well
19 aware, it is because of your fantastic work that
20 City Council mandated ACS already to have these
21 data mechanisms in place for detention. And the
22 proposed bill merely expands that same data
23 collection system to be in line with ACS's new
24 expanded jurisdiction under the Close to Home
25 facility. The administration did not testify why

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2 it would be burdensome to them and why they need a
3 year to expand the data reporting throughout the
4 facilities. They also testified that they have a
5 new planning and measurement unit that is already
6 engaging in this kind of data collection, so it's
7 unclear why they need a year to implement. And we
8 point out that there are children in placement
9 right now that the data that we reference in our
10 testimony and that you all heard testimony about a
11 few weeks ago about what's happening inside the
12 detention facilities, particularly with regard to
13 the use of restraints, where the overwhelming
14 amount of restraints are being used, and the
15 numbers which are really outlined in our testimony
16 are pretty extreme. For example, within detention
17 facilities during the most recent quarter, there
18 were 686 physical or mechanical restraints of
19 children, which averages to 7.46 restraints a day,
20 and one restraint approximately every 3.22 hours.
21 65 injuries to children, and two injuries which
22 required more than over the counter medical care.
23 Given that we're seeing these kinds of patterns
24 inside, again, those are detention facilities, but
25 a delay of a year to start collecting that data

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2 within the placement facilities really does not
3 seem adequate to what may be happening also inside
4 placement facilities. We don't know. We simply
5 don't have access to that data, and again, the
6 agency hasn't articulated why they would need a
7 year to expand these mechanisms. And the last
8 thing I would really point out on this is that by
9 September 2013, more than one cohort of youth,
10 probably multiple cohorts of youth, will have been
11 released from Close to Home facilities. The
12 average length of stay is seven months. You're
13 going to hear later today from parents whose
14 children are inside those facilities. To wait a
15 year to extend the data requirement, when those
16 mechanisms are already in place, when there are
17 children and families and community members whose
18 kids are inside right now really does not seem
19 like good sound public policy. I'd also point out
20 that the close to home initiative is a new
21 initiative that is getting widespread national
22 attention. It's getting statewide attention.
23 Governor Cuomo recently asked the state expand
24 Close to Home to other counties. And I think it's
25 imperative that you all as legislators, us as

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2 advocates and attorneys and service providers and
3 community members know what's happening inside the
4 facilities. And again, we really laud ACS for
5 consenting to this legislation or supporting it,
6 but we would really ask them to drill down into
7 whether it might be possible to have the data
8 released in a more timely way. And in conclusion,
9 I just want to say that children inside
10 facilities, whether they're Close to Home
11 facilities or detention facilities, are uniquely
12 vulnerable to abuse. It's not just because of
13 ACS, it's not about an agency. There have been
14 problems in the OCFS facilities, but there have
15 been problems across the nation. The Department
16 of Justice has made the same kind of findings they
17 made against the Office of Children and Family
18 Services in jurisdictions throughout this nation.
19 Children inside residential facilities by design
20 are removed from the public eye. They are
21 shrouded. And there's good reasons why children's
22 identities who are inside should be protected.
23 But there's no reason why the walls between those
24 facilities and the public and the walls between
25 those facilities and City Council Members should

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2 be dark. Our collective goal is to turn the
3 darkness to light, to make the walls glass, so
4 that we can all create a better system--

5 [applause]

6 GABRIELLE PRISCO: I guess that's
7 where I should end. Thank you. Right now I'm
8 happy being a Juvenile Justice Advocate, but thank
9 you very much.

10 BETH POWERS: Okay. Of course I
11 have to follow Gabrielle. We'll see how that's
12 fair. Good morning. My name is Beth Powers. I'm
13 the Senior Juvenile Justice Policy Associate at
14 the Children's Defense Fund, New York. Thank you
15 Chairwoman Gonzalez, and Juvenile Justice
16 Committee members, for the opportunity to testify
17 today regarding the proposed legislation,
18 introduction number 981, that will require ACS to
19 publish demographic data and incident reports on
20 youth detained and placed in its juvenile
21 facilities. We're very impressed by and hopefully
22 about how relatively comprehensive this proposed
23 legislation already is. There's no doubt that the
24 reporting requirements already required of ACS in
25 regard to detention should be expanded to non-

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2 secure placements and limited secure placement to
3 coincide with ACS's expansion of jurisdiction.
4 The data that are currently collected have clearly
5 demonstrated that children are regularly
6 restrained, injured and confined to their rooms in
7 secure facilities, and if we have any hope of
8 reducing these harms we must not allow such
9 harmful practices to proliferate in the dark,
10 hidden from the public. In addition to our strong
11 support of the expansion of data collection to
12 include all juvenile facilities under ACS
13 jurisdiction, we do have a number of
14 recommendations related to deepening and expanding
15 the proposed reporting requirements. While data
16 on number and type of incident are useful, even
17 more illuminating are data regarding outcomes
18 associated with incidents. We recommend that ACS
19 be required to share the following data: number of
20 modifications to a different level of care and
21 justification, as well as lateral movements
22 between facilities and justification. These are
23 often an indication that a program is not
24 sufficiently well structured to serve the youth in
25 their care, and we need to ensure that youth are

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2 being served in a comprehensive manner and not
3 simply moved to another placement when challenging
4 behaviors emerge. Also, the number of arrests at
5 facilities, including the charge and outcome of
6 arrest. Transparency around the frequency of such
7 events is vital to analysis of the efforts being
8 made within the therapeutic environment of each
9 non-secure placement and limited secure placement
10 to work with youth in these settings and not
11 simply pass them on to other systems. As a member
12 of the Juvenile Justice Coalition LGBT work group,
13 we understand that ACS is considering integrating
14 questions surrounding sexual orientation and
15 gender identity to their intake forms. At such
16 time that this is put in place, we recommend
17 requiring that this data be reported as well.
18 Just as the proposed legislation requires incident
19 data for each of the two existing secure detention
20 sites, we recommend that data reporting for NSDs,
21 NSPs and LSP be disaggregated by provider in order
22 to better understand the discreet experiences of
23 young people served by different organizations.
24 In addition to these suggestions, we recommend
25 expanding the existing data requirements to

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2 include indicators related to engaging local
3 community, specifically regarding which community
4 organizations each provider is collaborating with
5 and in what capacity, as well as education. Now
6 that young people have the opportunity to actually
7 take and pass Regents exams and acquire credits
8 towards graduation, we recommend requiring data
9 collection regarding number of educational credits
10 attained and regents exams taken and passed,
11 number of suspensions, classroom removals, arrests
12 and summonses that youth receive at Passages
13 Academy, attendance and enrollment for youth while
14 they're detained and placed as well as educational
15 discharge planning. Requiring ACS to make data
16 public about the treatment of the youth and
17 juvenile justice facilities throughout New York
18 City is one of the most important mechanisms we
19 have to fully understand the treatment,
20 experience, and related outcome of youth in our
21 juvenile facilities. In adopting legislation
22 related to data sharing incident reports, we hope
23 you'll take this opportunity to expand these
24 requirements to include information that allows us
25 to measure not only injuries and maltreatment, but

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2 also success. We're grateful for your effort to
3 support this legislation and further the work of
4 dismantling the cradle to prison pipeline. I
5 thank you for the opportunity to testify.

6 CHAIRPERSON GONZALEZ: Before you
7 continue, I just want to say that Council Member
8 Danny Dromm has joined us. He's a member of the
9 Committee. Thank you. Welcome.

10 JUDY YU: Good morning. My name is
11 Judy Yu. I'm the Associate Director of LGBTQ
12 Youth Issues of the Juvenile Justice Project of
13 the Correctional Association. I want to thank
14 Chairperson Gonzalez and Juvenile Justice
15 Committee Members for this opportunity to testify.
16 The Correctional Association of New York supports
17 introduction 981. We feel this proposed bill will
18 provide concerned citizens, families, communities,
19 legislators and stakeholders with critical
20 information about the conditions of ACS's juvenile
21 justice facilities, whether certain populations
22 are at disproportionate risk for youth justice
23 involvement, and at risk for particular harms
24 while in confinement, and the overall safety of
25 detained and incarcerated youth. We recommend

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2 enhancements to the proposed legislation to
3 further protect all youth in ACS's care. And I'm
4 going to speak specifically about including data
5 related to Lesbian, Gay, Bisexual, Transgender,
6 and Questioning, LGBTQ, youth. Research has shown
7 that LGBTQ youth are disproportionately
8 represented in the youth justice system, and
9 suffer routine and systemic treatment in detention
10 and placement as a result of their perceived or
11 actual gender identity, sexual orientation, or
12 gender expression. ACS has recently demonstrated
13 strong efforts to implement policies and practices
14 to protect and more effectively serve LGBTQ youth
15 in its care, including--as Beth Powers has
16 mentioned--the addition of sexual orientation and
17 gender identity to its intake forms, and also the
18 release of policies and guidelines guiding work
19 with LGBTQ youth. We really do applaud these
20 efforts and we feel that it is necessary and
21 important that the legislature include additional
22 measures to codify the important work ACS is
23 already doing and has begun. So we recommend in
24 that spirit the following additions and
25 enhancements to the legislation. We urge the City

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2 Council to include in the proposed bill sexual
3 orientation and gender identity as demographic
4 information to be collected and reported on ACS's
5 website. LGBTQ youth, as I mentioned before, are
6 disproportionately represented in the youth
7 justice system. There was a national study that
8 found that up to 15% of incarcerated youth are
9 lesbian, gay, bisexual, or gender non-conforming.
10 There's also a growing body of research that shows
11 LGBTQ youth are at increased risk for
12 homelessness, substance abuse, school bullying,
13 family rejection, due to social stigma, and that
14 these factors frequently funnel LGBTQ youth into
15 the system. The systematic ongoing collection of
16 this information on the individual and aggregate
17 level is necessary to assess whether the agency is
18 meeting its obligation to LGBTQ youth, and all
19 youth, through culturally responsive and affirming
20 services. In addition, we recommend that incident
21 reports should include bias-based incidents and
22 published incident reporting data should be
23 disaggregated by age, race, gender, gender
24 identity, and sexual orientation. The New York
25 City Department of Education tracks such

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2 information in its schools to ensure compliance
3 with its anti-discrimination policies and state
4 laws. Studies show that anti-LGBTQ harassment is
5 unfortunately also pervasive in detention and
6 placement settings. The tracking of incidents of
7 harassment and mistreatment and inclusion of this
8 information in published incident reporting data
9 will provide really important insight into the
10 safety and conditions for all youth in facilities.
11 We also recommend that the published reports on
12 incident reports be disaggregated by the age,
13 gender, gender identity, race, and sexual
14 orientation of the youth, as this might provide
15 further useful context to understand the safety
16 needs of youth, and if there are particular youth
17 at risk for violence while in the custody of ACS,
18 as well as the climate of the facilities. Due to
19 the social stigma LGBTQ people face, it may be
20 difficult to obtain accurate information about the
21 sexual orientation, gender identity of youth in
22 custody when we solely rely on intake to collect
23 such information. We recommend therefore an
24 anonymous self-administered survey as an
25 additional measure to be distributed to each youth

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2 on an annual basis to collect information about
3 the prevalence of LGBTQ youth in custody and their
4 experiences while in detention and placement.

5 These survey results should also be included in
6 public reports. It is good childcare practice to
7 collect such information for the purpose of
8 individual case planning, culturally competent
9 referrals for aftercare and system-wide quality
10 assurance. However, due to pervasive social
11 stigma that exists related to sexual orientation
12 and gender identity, stringent protocols and
13 professional standards have to be implemented to
14 ensure that information about youth sexual
15 orientation and gender identity is appropriately
16 handled and safeguarded. Training and
17 professional development should be mandated to
18 ensure that the collection management and
19 publication of this sensitive information benefits
20 and does not harm youth and families.

21 Furthermore, I urge New York City Council to
22 support and resource ACS to develop their capacity
23 to fully comply with such protocols. Improper,
24 careless, or malicious disclosure about a young
25 person's sexual orientation and or gender identity

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2 jeopardizes a youth's safety and placement at home
3 and at school. It can subject youth to
4 retaliation, abuse and psychological harm by
5 caregivers and peers. Youth in placement, all
6 youth in placement, are very vulnerable to abuse
7 already and have far less recourse and therefore
8 it is extremely important that capacity is
9 developed within ACS to appropriately collect and
10 manage this data. In the following areas in
11 particular, these resources are needed. Training
12 and coaching of staff on best practices and
13 protocols for the collection of information
14 related to sexual orientation and gender identity;
15 training and coaching of internal trainers in ACS
16 to ensure they have the tools, curriculum, and
17 most up to date research and knowledge in LGBTQ
18 youth, so that the resources for initial capacity
19 building can achieve long-lasting sustainability,
20 and that ACS can do this work on its own. ACS
21 must also receive technical assistance with the
22 design of the surveys and other data collection
23 tools to make sure that data is accurate. Again,
24 I want to say that we support the proposed
25 legislation. We feel it has great potential to

1
2 illuminate the treatment needs and risks of youths
3 in ACS's youth justice programs, and we feel that
4 this proposed inclusion of data related to sexual
5 orientation and gender identity and incidents of
6 bias and harassment will only strengthen this
7 legislation's reach and impact. Thank you.

8 CHAIRPERSON GONZALEZ: Thank you.
9 Councilman Danny Dromm.

10 COUNCIL MEMBER DROMM: Thank you
11 very much, Madam Chair. God works in strange
12 ways. And as one of the first openly gay elected
13 officials from the Borough of Queens--I had an
14 immigration hearing earlier this morning, that's
15 why I couldn't get here and I have to leave
16 shortly to go to a Cultural Affairs, and then I
17 have another hearing later--that's my problem, but
18 anyway that's why I'm late. But anyway, being
19 here and hearing your testimony and walking in on
20 your testimony regarding LGBTQ youth is very,
21 very, very important to me, as I know it is to the
22 Council Members who are sitting here on this panel
23 as well. And I actually have separate legislation
24 that would include this throughout the city, in
25 all the agencies, in Aging, in any agency where

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2 we're collecting this data, because I believe it's
3 so vitally important to understanding what's going
4 with everybody that enters into these agencies.

5 In some places, in some instances, there has been
6 some resistance to this, people saying--oh, well,
7 how do we secure that information without
8 offending anybody. And I don't really think it's
9 offensive to ask somebody, you know, do you care
10 to choose to identify one way or the other. You
11 know, and I think by even just coming off of that
12 premise, you're inferring that there's something
13 wrong with asking the question. So, I can't agree
14 with you more and I'm really glad that you're here
15 and I urge that we do include this in our
16 legislation as well. And Chair, I would like to
17 work with you on that. And whether it be done
18 through my own legislation, which I have for
19 specific agencies, and then I also have a piece
20 that's coming up citywide, it is time for us to
21 collect this information on the LGBTQ communities
22 so that we can provide city services. We are
23 taxpayers as well, our children our taxpayers, and
24 we deserve our fair share. So I'm very glad to
25 see and hear that you are here today. Thank you

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very much.

JUDY YU: Thank you.

GABRIELLE PRISCO: Chairwoman
Gonzalez, may I add a point?

CHAIRPERSON GONZALEZ: Yes.

GABRIELLE PRISCO: It's not
directly related to Councilman Dromm's points, but
I just want to reiterate what's in our written
testimony, for your information. The Correctional
Association and the Legal Aid Society are also
supporting specific enhancements to the bill.
While we certainly are appreciative of the bill
and its expansion to the placement facilities, we
think that certain information should also be
including, including the arrest data of young
people at the detention facilities, as well as the
placement facilities, including the modification
data, which would also include lateral moves
between placement facilities or between detention
facilities. It's our position that such moves and
such transfers of young people to different
systems are indicative of programmatic and
systemic failures within the detention and
placement facilities. So that information could

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2 provide much edification to community members, to
3 the Council, to ACS, to all people who have an
4 interest in safeguarding the rights of these
5 children. Certainly we would ask for enhancements
6 and would like to see more granular data with
7 regard to the restraint data. We'd like to drill
8 that down further. And all--again, all of these
9 details are in our written legislation as
10 presented to you.

11 CHAIRPERSON GONZALEZ: Okay. Thank
12 you so much. Councilman Dromm?

13 COUNCIL MEMBER DROMM: I left out a
14 couple of things, because they're very important,
15 and also an emotional issue for me. I visited
16 Rikers Island as well, where I saw youth
17 restrained and in segregated populations, etc.
18 And that can--when you see that, it was in the
19 cell, I went there with Council Member Crowley,
20 it's just amazing to see what those youth are
21 being put through. And I suspect also that a
22 number of those youth are LGBTQ or bisexual or men
23 who have sex with men, and just have not chosen
24 because it's such an unsafe environment to
25 identify in that way. And I don't know if even

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2 that would come up, if they would voluntarily
3 offer that information, but it should be there
4 nevertheless. Also at another hearing, and I
5 don't know if it was this Committee or not, but at
6 another hearing where ACS was present, they
7 reported that there were a number of incidents
8 with transgendered youth, or they thought there
9 were. And it was around an issue of hair, and I
10 can't remember exactly. But from knowing, you
11 know, transgendered youth, hair is an important
12 issue, especially from male-to-female
13 transgendered youth, so there would obviously be a
14 connection between the way that they choose to
15 wear their hair or the look of their hair or the
16 number of times they go to comb their hair. You
17 know, often times when youth are transitioning,
18 you know, they like to look in the mirror a lot.
19 You know, it's part of their self-image and
20 regaining their self-esteem. And so when I asked,
21 well, what do these incidents involve, they had no
22 information further than just that they thought
23 that it might be. So that's why having this in
24 the report so that we can get a better
25 understanding of exactly what's going on is really

1
2 important to these youth. And so I just really
3 can't urge it enough. And you've been very
4 generous, Madame Chair, in giving me the time to
5 speak and I really appreciate it.

6 CHAIRPERSON GONZALEZ: Thank you,
7 Council Member. I also just want to sort of
8 remind people that the members of this body as I
9 have been here, hopefully 11 and a half years
10 soon, I certainly have seen the diversity in our
11 body, the intelligence of the folks that are
12 elected and the different expertise in different
13 fields that step to this area with. And I know
14 that my 11 and half years, I believe I've had ten
15 years as chair of this committee, and this is a
16 new day. And I certainly am grateful that the
17 city, though slow, has been moving in a direction
18 to protect our children, because from zero time
19 that I went to facilities and I went into these
20 tiny little rooms that the doors would lock with
21 no--what I thought no air in there at the time--
22 you know, these are someone's children. And so
23 therefore, it is for me a big day in respect to
24 moving forward, and I'm hearing what you're saying
25 and I'm grateful that your expertise is there and

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2 that your advocating for our children and you're
3 working hard and that you understand that children
4 have to identify and that they have to be able to
5 feel free to do that. And so I am incredibly
6 grateful for you today, and I want you to know
7 that this body and these folks here are doing a
8 terrific job, and I see this because I'm there
9 internally. And I thank you for your passion and
10 your commitment, Council Members. Thank you.
11 Okay, thank you. Okay. From Community
12 Connections for Youth in the Bronx, New York,
13 Jeannette Bocanegra, Parent of Youth. Reverend
14 Ruben Austria. Austria, I'm sorry. Reverend
15 Ruben Austria. Demetria Frampton, J. Frampton,
16 from Community Connections for Youth. Thank you.
17 And then we also have Akmir Kaheem [phonetic],
18 Families on the Move, New York City and Jordyn
19 Lexton from--a former DOE teacher.

20 JEANNETTE BOCANEGRA: Good morning.
21 I want to say thank you and I commend you guys for
22 the work that you're doing, and I also want to
23 congratulate all the other speakers for doing the
24 work that they're doing. I am a parent impacted
25 by the system. I might get emotional, because

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2 just having to think about my experience and
3 having to talk about it over and over again is a
4 nightmare. But I'm just going to tell you a
5 little bit about who I am. I'm a mother of six,
6 but my youngest introduced me to this nightmare.
7 I felt like a proud parent, graduating my older
8 three, exposing them to college, working for a
9 wonderful organization that has history. Working
10 with parents, that's been my passion. Parents,
11 helping them navigate the school system for over
12 10, 12 years. But when my son made a mistake over
13 \$2 and was placed at Horizon, and then placed at a
14 facility upstaged, Lincoln Hall, when the
15 recruiter came to me at the Core House with this
16 beautiful brochure, with so many programs and
17 services, I said to him, my son doesn't belong
18 there; my son belongs home, but if this is what
19 you're offering him and I have no say so because
20 it's what a judge mandates, I can't even compete
21 with this. You're offering my son something that
22 I can't offer him because of the community I live
23 in. They promised me that I would be able to
24 visit the place as soon as my son gets there. I
25 didn't hear from my son for about four weeks.

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2 When I called my son, the first thing he said to
3 me was, Mommy, get me out of here. He was jumped.
4 His belongings were stolen. So I was saying, how
5 can a place with the reputation of what the
6 brochure outlines allow this to happen. Along the
7 line, he was trying to--they were trying to
8 medicate him. A young kid that I've never spent
9 any nights in emergency room--and I say that
10 because he was a breastfed kid; I nourished him.
11 Just to know what now he's dealing with is a
12 nightmare. Because I say that if the mission and
13 the vision of the juvenile system is to graduate
14 them to the adult system, they're doing a great
15 job. They're honestly doing a great job. When my
16 son said to me, Mommy, they're trying to medicate
17 me. I said for what. He said, I don't know. I
18 called the facility right away and I spoke to the
19 psychiatrist. I said, what determination did you--
20 -why are you trying to medicate my son? Oh, isn't
21 your son ADHD? I said, no. He said, well, I
22 apologize; it will never happen again. I said,
23 please make sure. So what I did was I met with
24 the superintendent, Louda Rodriguez [phonetic],
25 who was superintendent for children with special

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2 needs and bilingual. And I said to her, New York
3 City is out of compliance with meeting the needs
4 of children with special needs. And now that I'm
5 involved with--I'm trying to navigate the juvenile
6 system. Once they start releasing our kids back
7 to our community, you're going to have a lot of
8 issues addressing their needs. That was one issue
9 with Lincoln Hall, and I don't mind calling people
10 out if they're not doing what they need to do. I
11 feel that if you're taking money to provide
12 services and to reform young people, then you
13 should be held accountable. There's no reason why
14 you're taking our taxpayers' money and not held
15 accountable for the services you're not providing
16 for our children. I think that enough is enough.
17 These organizations that have been pimping our
18 kids for money and been destroying their minds, we
19 should--you know what--say enough is enough. My
20 son from Lincoln Hall graduated to Middletown,
21 where decisions were being made and my son when I
22 would call him--Mommy, they had a meeting, why
23 weren't you here? I didn't know about it. They
24 didn't call me. No one told me, because I made it
25 my business that the day that I had off I was

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2 going to go upstate and visit my son, no matter
3 how many hours I had to spend traveling, no matter
4 how much money I had to use to go visit my son. I
5 wanted my son to understand that you might be
6 under the custody of the state, but you're still
7 my son and I want to be very much involved in any
8 decision that they make about you. I called the
9 facility. Why did you guys have a team conference
10 meeting and his mother was not informed? Oh, I am
11 so sorry; we thought that because you're working--
12 don't think for me, because when it has to do with
13 my son, I will stop whatever I'm doing to address
14 the issues that my son is dealing with. My son
15 now is in Rikers. Instead of me planning his
16 graduation, high school graduation, I'm planning
17 on where is he going to go, where is this judge
18 going to send him. He's still a juvenile. He's
19 17. And if I would do the things that they do to
20 him at Rikers, ACS would be knocking on my door
21 without notifying me, removing my kid and removing
22 anyone under 17, 18. I think that we need to
23 start holding these individuals accountable. I
24 know that we have wonderful people that do
25 wonderful work with young people, but we also have

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2 individuals that have no business with young
3 people. My son, I tell him, just tell me what's
4 going on and how can I help you. Mommy, you can't
5 do anything about this no more, this is how it is,
6 this is how it's designed to be. But just
7 listening to the Council and saying that we're
8 changing things is giving me hope. And if not for
9 my son, for the hundreds of families that we work
10 with. Not to minimize my pain, but there are so
11 many other families that don't want to talk about
12 it because this is not a topic that it's
13 pleasurable to talk about. No family wants to sit
14 at no one's dinner table and say, well, yeah, my
15 son is locked up and, you know, he's being abused.
16 We want to talk about the successes of our
17 children. We want to talk about that if, okay, he
18 made a mistake, he's in a place where he's going
19 to come back and he's going to be a productive
20 citizen in society, that he's going to be able to
21 give back to his community. I think that it's
22 about time that we invest in our community, that
23 we look at grassroots organizations, because
24 they're the ones that are doing the real work.
25 Sometimes we look at these million dollars

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2 organizations that have been around for a long
3 time, and what have you done for my child? I say
4 that when you hold a child by the hand you have
5 the parent by the heart, and I think that I've
6 been very fortunate to have Reverend Austria, who
7 has been my guardian angel and my support,
8 Gabrielle, in my household alone I have six
9 registered voters. If you plan to run for office,
10 I don't mind canvassing my community. I don't
11 mind talking about my experience, because that's
12 what's helping me be able to help other families.
13 If I could talk about the issues and the problems
14 that we're facing, I know that we could be part of
15 a solution. If I sit back and let it be, I am
16 part of the problem. So I know that data is
17 important. We want transparency. I always say
18 that, why can't we walk into a facility
19 unannounced? If ACS can knock on your door
20 without informing you, we should be able to knock
21 on their door and say, let me see how our children
22 our doing. Let me see what's going on. And the
23 reason I say this is, because as a member of the
24 community, I also sat on the third review team for
25 the Department of Education state level. And we

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2 for three days went to a low performing school to
3 see what's going on. I mean, what's working,
4 what's not working, reviewing the CEP, the
5 Comprehensive Educational Plan, and for those
6 three days the school might be one of the schools
7 that I live right across the street from, and I
8 know there were issues. But for the three days we
9 spent in that school the floor was spotless, the
10 kids will tell you, wow, they got tissue in the
11 bathroom, they got running water. The teachers
12 were on their best behavior. The kids were told
13 wear your uniform for these three days and we will
14 reward you. If you guys act up, once the visitors
15 leave, you're going to see what's going to happen.
16 I think that announced visits are great, but
17 unannounced visits would be even better. We also
18 know that if someone is going to visit your home
19 you want to have it spotless, because you don't
20 want no one to say, your visitors say, well, look
21 at how nasty they live, like, my goodness, don't
22 they have time to clean up? Well, whether they're
23 non-secure, limited secure, group homes, detention
24 centers, Department of Correction, anywhere where
25 our children are at, we need to hold these people

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2 accountable. We should be able to walk in and
3 say, how are our children, how are they doing
4 today. Speak to them, trust them. They will tell
5 you, they will let their guards down and tell you
6 the truth if they feel that you're listening and
7 there's hope for change. And I think that I came
8 at the right time, with so many great individuals-
9 -they want to see change. I know that for the
10 City, it's like about saving money. But it's
11 about saving our kids. They are the future
12 leaders. Thank you.

13 [applause]

14 CHAIRPERSON GONZALEZ: Thank you.
15 I want to say something too, but I'd rather
16 whoever wants to speak, and then I'll--okay.
17 Who's next? Thank you.

18 DEMETRIA FRAMPTON: Good morning.
19 My name is Demetria Frampton. I am also a parent
20 of a youth that was involved in the system, but I
21 am also a retired correction officer for the New
22 York City Department of Corrections.

23 CHAIRPERSON GONZALEZ: Move closer
24 to the mic.

25 DEMETRIA FRAMPTON: And what I want

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2 to speak on, basically, is talking about the tree
3 of life with our youth. Okay. And there are a
4 lot of branches on this tree, and one of the
5 branches that's very important is the involvement
6 of ACS in connection with the juvenile justice and
7 the outside programs as well as Department of
8 Probation. When these children leave Rikers
9 Island, case in point, they are sent--they're not
10 prepared to deal with probation. They're told,
11 well, you have to report and if you don't report
12 you're going to get this, you're going to get
13 that, and these kids become fearful, and what they
14 do is they don't do what they're supposed to do if
15 they don't have the involvement of the tree of
16 life, and they end up getting readmitted to the
17 system. Okay. As far as Rikers Island goes, ACS
18 needs to be involved with our youth there, because
19 these children are brought into there--they're
20 taken from Horizons and Crossroads and all these
21 places when they're of age, when they age out
22 basically, and they're put into a whole different
23 system that they don't understand. And what
24 happens is that when you get a bunch of kids
25 together is they're going to be kids. What

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2 happens is that when you have an adult that
3 doesn't understand children being children, you
4 create a lot of animosity, a hostile environment,
5 and that's where your fights and all this stuff
6 goes on. You understand? And what I wanted to
7 say is that when these kids leave there once
8 again, if they're not getting the outreach from
9 programs like Community Connection For Youth and
10 the Red Hook program, you're going to see a lot of
11 recidivism with these youth. Thank you.

12 CHAIRPERSON GONZALEZ: Thank you.
13 Thank you.

14 [applause]

15 RUBEN AUSTRIA: Good afternoon. My
16 name is Reverend Ruben Austria, the founder and
17 executive director of Community Connections for
18 Youth. I'd like to thank Councilwoman Arroyo--
19 we're in your district, and I live there as well.
20 Thank you for standing with us on the Fresh Direct
21 issue too, and Councilwoman Gonzalez, I've been
22 before you for the last 10 or 11 years, and thank
23 you for supporting us on efforts to stop the
24 expansion of juvenile jails, to close Spofford,
25 and I appreciate your willingness to listen to

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2 community voices. In addition to being the
3 executive direction of an organization that
4 diverts young people from the front door of the
5 juvenile justice system, I'm also a member of the
6 Bronx Clergy Criminal Justice Roundtable, which is
7 about 400 individuals in the Bronx from the faith
8 community, who are concerned about our children in
9 the justice system. And what I want to say today
10 is that I hope that you will help us to keep New
11 York from continuing to be a national
12 embarrassment. And I say a national embarrassment
13 because while we've come a long way with our
14 juvenile justice system, we're still one of only
15 two states in the nation that treat 16- and 17-
16 year-olds as adults automatically in the justice
17 system. And as you heard from the parents, again,
18 these are children. These are our children. It's
19 not okay to put them in cages. It's not okay to
20 put them in solitary confinement. And to say
21 really that children cannot and should not and
22 must not be abused in any facilities that they're
23 in. I'm urging you to support the most stringent
24 and profound oversight of these facilities,
25 because we know from recent history is that when

1 facilities are unaccountable, when people don't
2 know what's going in, there have been a number of
3 deaths in recent years, and we think back to the
4 2005 death of Darryl Thompson, who was suffocated
5 to death while being restrained by staff in Tryon,
6 and really led to the investigation of the state
7 system, and resulted in our young people being
8 brought back home. But it wasn't just the state
9 system, there was 17-year-old Alex Serrino
10 Rodriguez [phonetic] who was also suffocated and
11 died while being restrained in another facility,
12 and Corey Foster, very close to home up here, who
13 I think just last year died from being restrained.
14 And these incidences happen when there's a culture
15 in these facilities that feels like when young
16 people misbehave we can do these things to them
17 and nobody's watching, and nobody's asking
18 questions. And so I want to really pass this
19 legislation that would make what's happening in
20 the facilities as transparent as possible. I also
21 live across the street from the 40th Police
22 Precinct, and every few days I'm seeing vans from
23 the Division of Youth and Family Justice bringing
24 young people to the facility. And because we get
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2 kids diverted when they get arrested, we go in and
3 say, hey, can we get this kid. And they say,
4 sorry, this kid is actually being arrested from
5 something that happened while they were in a
6 facility. We'll say, what happened. Well, he was
7 caught possessing marijuana or he got into a fight
8 with another kid. And maybe I'm not smart enough
9 to figure this out, but to me the logic seems to
10 be that if you've taken a child out of their home
11 and said he can't be in the community for public
12 safety reasons and you've put him in a secure
13 facility and in the facilities there's fights and
14 there's marijuana, that should be the
15 responsibility of the facility to clean up their
16 act in regards to those things as opposed to
17 calling the police to arrest more kids. We know
18 that these are not good places for children. We
19 also know that some facilities have in certain
20 states learned to do a very good job and to
21 minimize the number of assaults and the number of
22 restraints and really create a good culture. We
23 also know that a lot of places don't do that. And
24 we can't control everything that happens inside,
25 but what we must know is what's going on. And the

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2 only way we're going to know that is by the data,
3 and the only way that we're going to know it is if
4 that data is available on a regular basis to the
5 public, because we have to be able to see. We
6 have to be able to see. We have to be able to
7 look and see if there is a facility that has an
8 abnormal number of fights, an abnormal number of
9 restraints, that's a facility that's probably
10 going to be on the short list of one where a death
11 may occur if things are not done better. And we
12 don't want to wait until a death occurs before we
13 get involved. And we will get involved, but we'd
14 rather not be marching in the streets. We'd
15 rather be working with that facility to do better
16 by our children. And so as the Juvenile Justice
17 Oversight Committee, I want to urge you, one, to
18 think about this problem of the mass incarceration
19 of our youth as something that you should be
20 trying to stop at all costs. And that whatever
21 you do oversee is as minimal as possible, because
22 incarceration and criminal justice should not be
23 the primary response to young people who are in
24 trouble with the law. And whatever you do oversee
25 that you should oversee it as diligently and

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2 profoundly as possible, because many parents are
3 having this experience. Many young people are
4 telling us, a staff member punched me in the face,
5 I was going to file a complaint but then I knew I
6 might not get my weekend pass, so I just didn't
7 say anything. There needs to be transparency.
8 There needs to be openness, there needs to be,
9 before the public. And I urge you to hold that
10 standard up as high as possible. Thank you.

11 [applause]

12 AKMIR KAHEEM: Good afternoon. My
13 name is Akmir Kaheem. I'm a founding member and
14 board president for Families on the Move. First,
15 I would like to thank the Council for having this
16 hearing, and also I would like to applaud the
17 parents who came. I brought a group of parents
18 with me. They are known as the Families and Youth
19 Planning Committee for the Brooklyn Borough Based
20 Council. And their mission is to be the eyes and
21 the ears and the voice of their community. We
22 meet once a month at DA Hynes's office, where we
23 sit down with community based organizations, city
24 and state agencies, and parents, grandparents, and
25 caregivers, and we talk about the gap in services

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2 and we try to fix it by coming up with solutions
3 and strategies. And that's that committee's role.
4 One of the things I want to talk about is raising
5 the age. I knew this kid, at the age of 14 he was
6 selling drugs and eventually became an addict. So
7 he got involved in robbery. At the age of 16 he
8 was arrested and he went to prison. He had a
9 four-year sentence. He went to prison for two
10 years, came out, did his parole, went to college,
11 got a job working for the state, got a position as
12 a direct childcare worker unit manager, became a
13 supervisor of unit managers and became an
14 assistant director of New York State Office of
15 Children and Families program. Okay. But while
16 he was in college and he was doing well, there was
17 a robbery in his community. And one day he walked
18 into a restaurant and they said, oh, that's him.
19 And I said, that's not me. Police came, they
20 said, we'll work it out. I said, listen, I'll go
21 down to the precinct for a live line-up. But with
22 that individual--oh, I put it out of the bag and
23 said I already--what happened with me--and I was
24 going to tell you it was me, is that they used my
25 prison picture to be identified. I beat the case.

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2 I was found not guilty, because the guy, he wasn't
3 sure and I know it wasn't me because the
4 restaurant was right around the corner of my house
5 and I always go in there to use the phone because
6 back then we didn't have cell phones, so I had to
7 just use a pay phone. And now I just told you my
8 age. Okay. I got a job working in a hospital,
9 and I loved the job working in a hospital. I
10 worked in the intensive care unit and I loved
11 comforting people who may not be around for a
12 while. One day I went to work and they said, go
13 down to Human Resource. I went down to Human
14 Resource and they said we're going to have to let
15 you go. And I said, why? Well, on your record
16 you said you were not ever arrested or convicted
17 of a crime. Now, I was 16 when that happened.
18 Okay. And as a result of that I became angry.
19 And I wanted to go stick up somebody or something,
20 because you know what, I did my parole. I went to
21 college. Now I'm trying to do the right thing and
22 I get smacked down. I had a good parole officer.
23 I was no longer on parole and I went to his office
24 and he told me about an agency called Office of
25 Children and Family Services. But my point is

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2 this, my issue was drug addiction. Okay. I've
3 been criminalized. Even if I apply for a position
4 today I have to put down that I was arrested and
5 convicted of a crime. I already have a prepared
6 statement around the circumstances. But we do
7 have to raise that age. We have to raise that age
8 because you have young people who do not need to
9 be in that situation, because it's going to impact
10 them the rest of their lives. I apply with
11 something I got to put down that I was arrested.
12 Now in terms of transparency, Close To Home, Close
13 To Home is not going to work unless everybody's
14 involved. The community needs to be involved.
15 The Council needs to be involved. ACS needs to be
16 involved. Everyone needs to be involves because
17 the bottom line, not one--the Council alone can't
18 do it, ACS can't do it. Okay. Because the bottom
19 line, this is what's going to happen if it don't
20 work--that pipeline to prison is going to open up.
21 Because what's going to happen to that 16-year-old
22 who is in one of these private agencies, go out
23 there and burglarize somebody's apartment? He's
24 going to the adult system. Okay? And I'm going
25 to tell you, my experience, I have 36 years of

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2 experience working in OCFS. I've worked in secure
3 facilities and I can tell you this right now, once
4 a youth is arrested and he goes to criminal court,
5 everybody wash their hands. You may have some
6 kids or have dual placement, but the bottom line,
7 they wash their hands. They've blown him down.
8 Okay. And when I worked in secure, when a kid
9 came in there on a probation violation, probation
10 washed their hands. So we need the transparency
11 so that the public can be involved, so the group
12 of parents that I work with can be involved,
13 because they're the eyes and the ears and the
14 voice of that community. And we talk about Close
15 To Home a lot, and we've come to the conclusion,
16 if it's going to work, we in the community--the
17 parents, the community-based organizations--we
18 have to be involved. And a lot of us, we
19 struggle. We don't get those million-dollar
20 contracts. Some places we don't even get a
21 subcontract. But they will come to us for support
22 and assistance. And we struggle on grants and
23 donations and we can't even get a piece of the
24 pie. And the bottom line is the community based
25 organizations, we are the grassroots. We're the

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2 ones got our ears. We're the ones who are in the
3 Laundromat, listening to that story, that parent
4 telling her life story. We're the ones who are
5 sitting in that grocery store and that parent, the
6 guy behind the counter, is talking about the
7 challenges that he is having with his child being
8 in the system. And we have to bridge that gap.
9 We have to bridge that gap through transparency.
10 Because you know what? If your school is not
11 making it, you get closed. If you're a facility
12 and you're not making it, you need to be closed.
13 And the only way you're going to get closed is if
14 you have the data to support it. And you can't
15 wait and give somebody a year to get it, you've
16 got the mechanism in place. What are you going to
17 do, recreate the wheel? Make it happen and stop
18 stalling. Okay. Make it happen and stop stalling
19 because it's crucial. It's crucial that we have
20 that information so that when you have concerned
21 parents and stakeholders and so forth, they can
22 sit down at the table and not be sitting there
23 arguing, but sitting and coming up with solutions.
24 I can't come up with solutions unless I know what
25 the hell is going on. And the data speaks for

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itself, unless they're crunching the numbers.

Thank you.

[applause]

CHAIRPERSON GONZALEZ: Normally
applause is not something we do here, but I do
understand how you feel, sir. And this panel has
been incredible. I mean this used to be a
subcommittee, Juvenile Justice. I knew from zero
time that we needed, and I come from a grassroots
background and experience in Sunset Park,
Brooklyn. And I have to say, Jeannette, when I
heard your story, my heart was really touched.
I'm a mother and a grandmother, so I know. And
I've known always that as the Reverend said, our
children need that opportunity, and they do make
mistakes. I've always gone on record as saying
that children deviate from their character, and we
need to know that they will return. I get
emotional too, because I see the strength that is
here and your advocacy and your experiences, and
16 should not be a turning point for a child that
their life is destroyed. So I know that here at
the council, I know this again, and I repeat, my
members and the members in our council and my

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2 colleagues feel strongly about this. And I know
3 that Councilmember Maria Del Carmen Arroyo would
4 like to share a few things with you, because she's
5 also as passionate as I am. But I thank all of
6 you, and we hear you. We hear you, Legal Aid
7 hears you, all the advocates besides yourselves
8 hear you, the Council hears you. And, please,
9 look me up. You can call my office if ever
10 there's a situation. If I can't take care of it,
11 I'll find away. Thank you.

12 JEANNETTE BOCANEGRA: Can I share
13 something with you also?

14 CHAIRPERSON GONZALEZ: Yes.

15 JEANNETTE BOCANEGRA: That I
16 decided that I was not going to sit down and feel
17 alone. I was employed. I left the job that I
18 loved dearly with Aspida [phonetic] of New York.
19 I'm sure everyone knows about Aspida and the great
20 work that they do, to work with Community
21 Connections for Youth and support other families.
22 We also do monthly group meetings with families to
23 support them and let them know that they're not
24 alone, bring resources to them. We have two
25 groups of families that we work with. I call one

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2 group the fortunate families, which are the
3 families that have young people that were diverted
4 into our program to get the support and the
5 mentoring and all the resources that they need,
6 and then we have the unfortunate group of families
7 that I call them, as myself, that a judge did not
8 see our young individual fit to be in the
9 community. So, I turned my pain into a passion to
10 work with those who feel that their voice is not
11 being heard and that there's no hope.

12 CHAIRPERSON GONZALEZ: And I just
13 want to say that as a mother, again, you are there
14 for him and he has a lot of hope. So we're not
15 going to give up, and I know that you certainly
16 haven't.

17 JEANNETTE BOCANEGRA: I never will.
18 Thank you.

19 CHAIRPERSON GONZALEZ: So, you
20 know, keep up and know that he too can be part of
21 society and be productive. Okay? So, in the
22 interest of time, Councilmember, go ahead.

23 COUNCIL MEMBER ARROYO: Thank you,
24 Madame Chair. That means I should keep it short.
25 And I have to prepare for a Health Committee

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2 Hearing at 1:00. Reverent, Jeannette, thank you
3 for being here. Thank you for the work that you
4 do. And, you know, the Safe Night Out events that
5 you organize in the district was a little bit
6 interrupted by an incredibly difficult situation
7 where a young man lost his life, and the police
8 relations, community relations issue came to
9 really close eruption. And because of the work
10 that you did in that community, with the
11 community, that situation did not escalate to a
12 more difficult one than it already was. So I want
13 to thank you for that. And Jeannette, for sharing
14 your personal story. And I think we become
15 advocates often because we are personally touched
16 by the issues and the things that we advocate for.
17 So, god is working and preparing you because we
18 need that voice and we need that strength in the
19 work that's being done to save our youth. And
20 most recently, in a General Welfare hearing joined
21 with the Committee on Youth, the issue of sexually
22 exploited children was the subject. But I asked
23 the ACS commissioner the question of what is our
24 city or system providing for youth who
25 unfortunately find themselves in the criminal

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2 justice system and then are prepared to come back
3 home but are reluctant to go back to the
4 environment they came from, for fear that they
5 would be in danger or could potentially face the
6 risk of reincarceration, because the environment
7 they find themselves in might not be suitable to
8 keep them out of harm's way. And I'm not pleased
9 with the response that I got and I want to engage
10 in a conversation about alternative solutions for
11 youth who are returning to the community. But
12 divert them from an environment that could put
13 them again in that revolving door. So I'm going
14 to ask you to help me engage in that conversation
15 with the powers that be, the ACS, HPD, the housing
16 providers, the education providers. Because the
17 tree of life has many branches and housing is one
18 of them, but how do we get that individual, hear
19 her, him or her, to get the support systems and
20 services they need to further education, to be
21 prepared for the workforce, to get a job, to keep
22 a job while they keep a roof over their head in a
23 safe environment, free in the community or maybe a
24 new community, because the one they came from
25 might not be the best place for them to be. So, I

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2 want to thank you and you leave here--usually
3 people come to talk to me, they leave with work.
4 So, I want to recruit you into that conversation.
5 And we don't engage in it here, but I want to
6 prepare you for that. And to your point, and I
7 didn't get your name.

8 AKMIR KAHEEM: Akmir Kaheem. I'm
9 sorry.

10 COUNCIL MEMBER ARROYO: Akmir. You
11 know, there's--also involved in a conversation
12 about banning the box and whether or not you must
13 disclose former experiences, arrests or
14 convictions. Because we know that checking off
15 that box is the first step to you being
16 disqualified as an applicant, despite how far
17 you've come in life and what improvements you've
18 made and how much stronger you are for the
19 experience that you had. So, I'm going to look to
20 you too. And this ban the box issue was brought
21 to me by a very young woman that I met at an event
22 that was celebrating reentry programs for people
23 who are coming back to the community. So I'm
24 going to add you to that conversation as well.

25 AKMIR KAHEEM: Not a problem.

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COUNCIL MEMBER ARROYO: Okay.

Thank you, Madame Chair.

CHAIRPERSON GONZALEZ: Okay. We have another speaker. Thank you. Thank you so much.

JORDYN LEXTON: Hello. Thank you. My name is Jordyn Lexton, and I am a former DOE public school teacher. I taught for three years inside of Rikers Island at the high school. Sure. I taught for three years at the high school on Rikers Island, currently East River Academy, and I'm currently the founder and executive director of a reentry program for youth called Drive Change, which is a food truck business that hires formerly incarcerated youth and teaches transferrable skills. I want to just say before I go into the testimony, which is mostly about transparency, that I am a huge proponent of the Raise the Age Campaign. We're using a food truck as our model for a reentry program as an attempt to bring awareness to New York City about the fact that the age of criminal adult responsibility is set at 16, because it's been my experience that too few people in our own city know that that is

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2 true and know that we're only one of two states
3 left to have such a low age of criminal adult
4 responsibility in New York. But I am going to
5 spend most of the time talking about transparency.
6 Children in residential facilities, and this
7 applies to all kids in the system, even if they
8 are not detained in ACS facilities, but are
9 detained inside adult city jails, are uniquely
10 susceptible to abuse and mistreatment because of
11 their age and isolation from the public. Masked
12 as a safety precaution, facilities often are
13 closed off to the public and what happens inside
14 the facilities is little known and especially
15 little reported. I've personally evaluated and
16 calculated the OCFS and ACS restraint data from
17 the past three quarterly reports and approximately
18 an average of eight reported restraints happen per
19 day. That's an average of three per every three
20 hours, a restraint happening every three hours
21 inside of these facilities. And I want to
22 reiterate that those are the reported restraints.
23 My personal experience working on Rikers Island is
24 that what is actually reported is only a fraction
25 of what really goes on and happens. So, having

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2 that information is really very important. And to
3 along with that point, cameras really only exist
4 in certain buildings, rooms, halls, housing areas,
5 and it's very--savvy officers and savvy students
6 or detainees figure out the areas in the facility
7 where you're not under surveillance. So, I speak
8 about this need from my own personal experience as
9 a teacher in Rikers Island, where I worked inside
10 RNDC, the adolescent male facility. And if you
11 look at the releases of the numbers of infractions
12 and fights from the different facilities, RNDC,
13 which holds the majority--85% to 90% of the
14 adolescent detainees--it's astronomically higher.
15 You look through the other facilities, EMTC, the
16 NICs, Singer, OBCC--one, two, three restraints,
17 five fights. RNDC, hundreds per--it's just--and
18 that in my opinion is a reflection of the fact
19 that these young people who are adolescents and
20 are detained and arrested as adults are not in the
21 appropriate setting, but also that the staff is
22 just not appropriately trained to deal with these
23 adolescent populations. But on top of that, what
24 I will say is that these kids also, the students
25 that I worked with at RNDC are detainees. They're

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2 not even convicted of crimes yet. So the fact
3 that--the bail issue is another issue--but that's
4 something to really bring up is that these are
5 young people who in our court system have not been
6 proven guilty by the law and are still being
7 treated in this way. So, I want to talk about how
8 after years of witnessing this maltreatment and
9 feeling silenced by my position as a civilian
10 employee inside of a DOC facility, I'm now in a
11 position because I'm no longer a DOE employee to
12 speak out about the treatment of kids inside
13 facilities and their need for independent
14 transparency and oversight. And I say independent
15 deliberately, because and as ACS has pointed out,
16 that they're not opposed to the legislation that's
17 being proposed today, but the notion that it's an
18 internal council that will be conducting the
19 oversight is reason to have some concern,
20 considering the fact that it's very hard and it's
21 understandably challenging to within an agency be
22 in charge or your own reporting. Because you
23 build connection to your colleagues. And that's
24 an understandable human condition, but at the same
25 time, that objective independent oversight agent

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2 really can hold people accountable to an entirely
3 different level. And while of course there will
4 be pushback on that to begin with, overall we'll
5 see greater results when it comes to the
6 restraints on kids inside of these facility. So,
7 in addition, I want to talk about how there's a
8 need for the immediate implementation of this
9 legislation, that one year is much too long to
10 wait for implementation of this legislation. And
11 I'll just give a personal example of how on any
12 given day horrific things can happen inside of
13 these facilities. Last week I went to Rikers to
14 talk to DOC program staff about my non-profit, and
15 I went back to the Sprungs at RNDC to visit my old
16 co-workers and to visit the school up there. And
17 to say the least, it was a very brutal homecoming.
18 Within the first five minutes I found myself
19 behind a closed door of--within an enclave of
20 offices and an officer and captain shoved a
21 student into the hidden enclave and closed the
22 door behind them, unaware that I was sitting in a
23 closed office with my colleague. What proceeded
24 has gone, honestly, within only a week, too long
25 untold. The young person was beaten, asphyxiated

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2 to the point where he was croaking and almost
3 passed out and verbally abused. When I realized
4 that the young person was not verbally responding
5 because he was being choked heavily and gagging
6 for air, I froze and fear took in. No noise. Ten
7 seconds, nothing. And then I heard this. Talk,
8 speak, what housing area do you want, 2L or 6L.
9 Talk. Nothing. And then this. You're blinking,
10 you're not dead, I feel your heart racing. And
11 finally a muffled 2L. I'd like to tell you that I
12 bused the door down and reprimanded the DOC staff
13 and that I took down their names and then reported
14 them to their supervisors. I didn't. This is the
15 kind of silence that the current system fosters,
16 the system where snitches get stitches, even if
17 you're a documented reported, as all DOE members
18 are. Speaking out against our other authority is
19 nothing short of taboo and it will cost your job
20 if not literally, then you will be blacklisted and
21 other staff will not help you when you're in need
22 of assistance. I want to be very clear that blame
23 is not adhered solely to authority figures, the
24 officers that interact with our youth in
25 particular. We are all to blame. Without proper

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2 regulation, training, oversight and transparency,
3 there are no methods put in place to allow
4 authority figures to trust that their written or
5 oral reports will be met with the proper attention
6 from their own authority. If a young person is
7 presenting challenging behavior and that disrupts
8 the officer's ability to do his or her job, there
9 aren't any trusted systems in place to ensure that
10 an officer can receive the help that he or she
11 needs, and we need to change the way we think
12 about authority inside of these facilities. A
13 call for help or guidance cannot be seen as a sign
14 of weakness, but rather an attempt at handling a
15 situation without physical restraint. Now, I
16 really thought a lot and hard about if I were a
17 DOC staff member if I would honestly handle
18 situations much differently. I'd like to believe
19 that I wouldn't choke a kid until near passing out
20 and death, but I honestly cannot say within the
21 current system that I wouldn't resort to some kind
22 of physical violence, because there is no behavior
23 management that actually functions and functions
24 appropriately to deal with issues within
25 containment and within facilities. Switching to

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2 digitally. Okay. So, we demand a system that
3 trains staff and has procedures put in place that
4 make it clear that physical restraint is a last
5 possible resort. An objective outside oversight
6 agent is key because it will hold people
7 accountable and allows for public information that
8 is necessary and should not be the responsibility
9 of the victims and or the coworkers of the same
10 fabric. There is more than lint and dust under
11 our correctional carpet. Exposure will be matched
12 with resistance, as I mentioned before, but ACS is
13 in a unique position to set precedence by way of
14 transparency with the new Close To Home
15 initiative. ACS's requests for a year in terms of
16 extension for this data is too long to wait. One
17 single day is too long to wait, as I highlighted
18 by that experience that randomly happened to me
19 when I entered the facility last week. These
20 young people are people's children. The public
21 deserves to know what is happening to kids inside
22 facilities. Our kids are in our city now and they
23 are no longer geographically too far or out of our
24 reach. Let's be mindful with public reporting and
25 independent oversight to ensure that even though

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2 they're back in New York City, they are still not
3 out of sight. Thank you.

4 CHAIRPERSON GONZALEZ: Thank you so
5 much. I want you to know that I was the lead
6 person on a resolution last year in respect to
7 Chief Judge Lippman's legislation and the idea
8 that we need to change the age. So, we're with
9 you. We stand strong with our parents and our
10 communities, and we certainly will stay vigilant.
11 Thank you.

12 JORDYN LEXTON: Thank you.

13 CHAIRPERSON GONZALEZ: Okay.
14 That's it. Okay, well, thank you everyone. Thank
15 you to all the staff, my colleagues, and thank you
16 to all the Sergeant-of-Arms. Adjourned.

C E R T I F I C A T E

I, Erika Swyler, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature

Date 3/7/2013