

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON JUVENILE JUSTICE

-----X

November 1, 2011
Start: 10:17 am
Recess: 12:17 pm

HELD AT: 250 Broadway
Committee Rm, 14th Fl.

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

COUNCIL MEMBERS:
Christine C. Quinn
Fernando Cabrera
Maria del Carmen Arroyo
Daniel Dromm
James Sanders, Jr.
Elizabeth Crowley

A P P E A R A N C E S (CONTINUED)

Jonathan Lippman
Chief Judge
NYS Unified Court System

Michael Corriero
Executive Director and Founder
New York Center for Juvenile Justice

Raye Barbieri
Director
Implementation at the Center for Court Innovation

Steven Banks
Attorney-in-Chief
Legal Aid Society

Andrew Kalloch
Scott Stringer
Manhattan Borough President

Liz Ryan
Campaign for Youth Justice

Stephanie Gendell
Associate Executive Director for Policy and Public
Affairs
Citizens' Committee for Children

Avery Irons
Director of Youth Justice Programs
Children's Defense Fund New York

Gabrielle Prisco
Director of the Juvenile Justice Project
Correctional Association of New York

1

2

CHAIRPERSON GONZALEZ: ...is

3

November 1st, 2011. I am Council Member Sara

4

Gonzalez, this is a Committee on Juvenile Justice.

5

Again, good morning, my name is

6

Sara Gonzalez, I am the Chair of Council's

7

Juvenile Justice Committee. Today, the Committee

8

will discuss Resolution 1067, which I introduced

9

with Council Member Elizabeth Crowley.

10

Resolution 1067 supports New York

11

State Chief Judge Jonathan Lippman's call on the

12

New York State Legislature to pass and the

13

Governor to sign legislation raising the age of

14

criminal responsibility for nonviolent offenses

15

from 16 to 18, and permit the cases of 16 and 17-

16

year-olds charged with such offenses to be

17

adjudicated in the family court, rather than the

18

adult criminal justice system.

19

Before I continue, I want to

20

recognize the other Council Members who are here

21

today, and also Christine Quinn, our Speaker. And

22

also Fernando Cabrera and Peggy, our counsel and

23

also William Hongach, our counsel. And--

24

[Off mic]

25

CHAIRPERSON GONZALEZ: Okay.

1

2 Sorry, want to make sure I cover everyone, okay.

3

4

5

6

7

8

9

10

11

12

So I would also like to thank Chief Judge Lippman for being here today, for his efforts to advance these changes, and for his long-standing dedication to serving the people of New York. Additionally, thanks to all the advocates who have attended the Juvenile Justice Committee hearings over the years, and for your unwavering commitment to improving the lives of youth involved in the juvenile justice system and the public.

13

14

15

16

17

18

19

20

21

22

23

24

25

New York has long been considered a leader in justice-related issues, however, I feel we are falling behind other states when it comes to the issue of criminal responsibility. As most of us in this room know, New York is one of only two states that currently automatically prosecute 16-year-olds as adults. As Council Member and Chair to this committee, I understand that sometimes children deviate from their normal character and I find it troubling that youth, who would otherwise be tried as juveniles in 48 other states, are currently tried in New York State's criminal court.

1
2 Research shows that the adolescent
3 brain is not as fully developed as the adult
4 brain, and this development difference limits use
5 capacity to exercise sound judgment and reasoning.
6 This alone should warrant that youth not be
7 treated the same way as adults, but rather the
8 punishment should be proportionate to their
9 diminished responsibility.

10 By raising the age of criminal
11 responsibility and trying youth in the juvenile
12 justice system, we are able to offer therapeutic
13 options and alternative services. It is time for
14 New York to recognize that many of the offenses
15 committed by adolescents are low-level, nonviolent
16 crimes and that these youth and all of us will be
17 better served if provided options to address their
18 problems and underlying causes of their behavioral
19 issues, rather than being exposed to the criminal
20 justice system which focuses on punishment.

21 I would like to conclude by saying
22 that I have been at the forefront of the City's
23 juvenile justice issues since I was elected to the
24 City Council, and have always been committed to
25 promoting the best interests for our youth and the

1
2 public at large. I believe Chief Judge Lippman's
3 proposal does both of those things.

4 Again, I will like to thank you all
5 for being here today, and I look forward to
6 testimony from Chief Judge Lippman.

7 And right now, I would like to
8 introduce our Speaker, a person who has been in
9 the forefront for so many years who has definitely
10 worked on a lot of vital issues in respect to
11 juvenile justice in the city. Her leadership, her
12 thoughtfulness, and care when it comes to this
13 population has helped for us to be here today. I
14 thank her for all her hard work on behalf of some
15 of New York's most vulnerable youth. Our Speaker,
16 Christine Quinn.

17 SPEAKER QUINN: Thank you very
18 much, Chair Gonzalez, and thank you, Chair and
19 also Council Member Crowley, for introducing this
20 resolution; but, Sara, more importantly thank you
21 and your staff for organizing today's hearing and
22 for all of your work on behalf of young people in
23 the city of New York. So thank you very much.

24 I want to thank our Chief Judge
25 Jonathan Lippman for being with us today and also

1
2 Judge Gail Prudenti for being with us today as
3 well.

4 Resolution 1067 supports the Chief
5 Judge's call for nonviolent offenses committed by
6 individuals 16 to 18 to be handled outside of
7 criminal court and in the family court. If you
8 look at the facts, the vast majority of crimes
9 committed by people 16 and 17 are not violent
10 crimes, are misdemeanors. And how often have we
11 heard people say that they got sent away to learn
12 how to be better criminals or to learn how to be
13 criminals? Facts have shown in 48 other states
14 that when you to take children--and they're really
15 just children, they're older children, but they're
16 children--who are at this point in their life who
17 have done something wrong and put them through the
18 family court system, they'll end up in alternative
19 programs, they'll end up in some type of programs
20 that help address what the underlying issues are
21 for them. And that makes a difference. That
22 prevents them from ending up in a life of crime.
23 It makes a mistake be a one-time thing, not a fork
24 in the road they can never go back on.

25 That's why 48 other states treat 16

1
2 and 17-year-olds this way; that's why the state of
3 North Carolina, the only other state that does it,
4 recently introduced legislation to change and
5 follow the direction of the rest of the country.
6 I hate to see New York State as a follower, but
7 we're not in the right place here.

8 It's a mistake that we've stayed
9 here so long, and I applaud the Chief Judge, which
10 is not an easy thing for the Chief Judge to say
11 part of our criminal justice system isn't right;
12 part of our judicial system isn't treating people
13 the way it should. But a real act of bravery is
14 standing up and saying that what you are in charge
15 of isn't going the right way.

16 So I just want to applaud you so
17 much for that, Chief Judge. I know this is not
18 going to be easy, nothing in Albany ever is, but
19 we in the Council stand at the ready to make this
20 a central part of our state legislative agenda to
21 work with you because I would argue a significant
22 majority of the 16 and 17-year-olds we're talking
23 about come from the five boroughs. So this is a
24 statewide issue, but it's really a New York City
25 issue.

1
2 We recently have faced a, you know,
3 just a rash, unfortunately, of sex-related crimes
4 in this city, and recently we were--the police,
5 working with myself and some of the Council
6 Members, were able to apprehend an individual we
7 believe was committing rapes in Queens. That
8 person's 15 years old. Hopefully, you know
9 something will be done to get him back on the
10 right track. But a 12-month difference and he
11 wouldn't have gotten maybe the help he needs or,
12 you know, or other situations like that.

13 And what really we want the
14 juvenile justice system and the criminal justice
15 system to do is rehabilitate people. And, Judge,
16 your call is saying we can rehabilitate these
17 children, set them on the path that their life is
18 supposed to be that. And I just applaud you so
19 much for making this call, and we stand at the
20 ready to do that.

21 And I understand the 15-year-old I
22 just mentioned was a violent crime and this isn't
23 the case with everything we're talking about, but
24 I think it makes my point, do you know I mean?
25 That one 12-month difference can change totally

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

how we treat somebody.

And, Judge, when you hear about a young person who has done something wrong and then their entire life is ruined, it's another kind of thing that breaks your heart, and today we're going to make sure--a step towards making sure that doesn't happen anymore.

I also want to recognize Judge Michael Corriero of the New York Center for Juvenile Justice who's with us as well today.

Thank you.

[Pause]

CHAIRPERSON GONZALEZ: Okay. We lost our mic, sorry.

SPEAKER QUINN: Here you go.

CHAIRPERSON GONZALEZ: Okay. I'd like to now introduce Chief Judge Jonathan Lippman, please proceed, and welcome. Thank you.

[Pause]

HON. JONATHAN LIPPMAN: Good morning. It really is a pleasure to be here. I want to start by recognizing Speaker Christine Quinn for so many things, but in particular, for her testimony just a few short weeks ago at the

1
2 Judiciary's Hearing on Civil Legal Services. That
3 was so insightful and persuasive with regard to
4 ensuring that there is equal justice for every New
5 Yorker who comes to our courthouses seeking
6 justice. I think Speaker Quinn represents the
7 City Council with such great distinction and I
8 appreciate her proactive and eloquent support for
9 the judiciary on issues on justice issues which
10 matter so much in this city and the state.

11 I also want to thank Council Member
12 Sara Gonzalez for her energy in support of this
13 issue and so many other issues relating to
14 juvenile justice. I so greatly appreciate it.
15 And I want to thank the Members of the Committee
16 on Juvenile Justice for inviting me to testify
17 this morning on this issue, which I believe is of
18 critical importance to our city and the well-being
19 of its residents.

20 I come here today to discuss what
21 remains a glaring problem for all of us in New
22 York--the age of criminal responsibility. Every
23 year, about 45,000 to 50,000 young people aged 16
24 and 17--and, as the Speaker indicated, so many of
25 them here in New York City--are arrested in New

1
2 York and prosecuted as adults in our criminal
3 courts--overwhelmingly for minor crimes.

4 In 37 other states and the District
5 of Columbia, the age of criminal responsibility
6 starts at 18; 11 states have set the age at 17;
7 New York and North Carolina, alone in the nation,
8 continue to prosecute 16-year-olds as adult
9 criminals. And, based on recent developments that
10 was mentioned before, in the North Carolina
11 legislature, New York may soon be the last state
12 to do so.

13 Before going on, I want to clarify
14 what the focus of my remarks are today, is on less
15 serious crimes committed by adolescents. As you
16 know, the age of criminal responsibility for
17 murder starts at 13, and at 14 for major felonies.
18 Those juveniles who commit serious offenses of
19 this nature can and should be prosecuted in the
20 criminal courts. However, the fact is that only a
21 very small fraction of juvenile cases in New York
22 involve serious crimes like murder, aggravated
23 assault, robbery, rape.

24 So the question of the day for us
25 in New York is this: Are 16 and 17 year olds,

1
2 arrested for minor drug offenses, shoplifting,
3 vandalism, trespassing, fare-beating, and the
4 like, better served by going to criminal court or
5 family court? Do we in New York and in our state
6 want to see adolescents processed in an adult
7 criminal justice system focused on punishment and
8 incarceration, where rehabilitative options are
9 limited, where they may be jailed, where they may
10 be victimized, and from where they emerge with a
11 criminal record that bars them from future
12 employment and educational opportunities? Or do
13 we want to see these young people in family court,
14 which is focused on rehabilitation and is equipped
15 to get kids back on the right track, which offers
16 supervision, mental health treatment, remedial
17 education, and other services and programs; a
18 system where judges are obligated by law to act in
19 the best interests of the child who comes before
20 them--a mandate that just does not exist in
21 criminal court. The answer, to me, is obvious:
22 Teenagers do stupid, impulsive, irrational things--
23 --we've all experienced that--

24 CHAIRPERSON GONZALEZ: By
25 definition.

HON. JONATHAN LIPPMAN: By

1 definition, yes. That leave you shaking your head
2 and pulling your hair out. Scientific research
3 has made clear that adolescents are different than
4 adults and that teenage brains are not fully
5 matured, which limits their ability to make
6 reasoned judgments and engage in the kind of
7 thinking that weighs risks and consequences.
8 That's why teens have difficulty with impulse
9 control, and with resisting outside influences,
10 and peer pressure. That's why the United States
11 Supreme Court has stated that, although young
12 offenders should not be absolved of responsibility
13 for their actions, they need to be treated
14 differently because their transgressions are not
15 as quote morally reprehensible as that of an
16 adult.

17
18
19 There is also plenty of research
20 confirming that older adolescents tried and
21 sentenced in criminal courts have higher
22 recidivism rates, re-offend sooner, and go on to
23 commit violent crimes and felony property crimes
24 at a higher rate than young people who go through
25 family court. I would mention particularly to you

1
2 a study in New Jersey which has the age where it
3 should be at 18, that 85 % of the kids in New
4 Jersey who went through the family court, in New
5 York, they're 85 % more likely to commit violent
6 crimes than the kids in New Jersey who went
7 through the family court and 45 % more likely to
8 commit property crimes in New York than, again,
9 the adolescents that go through the family court
10 in New Jersey. And those numbers are really
11 startling and I think reflect the facts. There is
12 plenty of research confirming this fact and I
13 think this is undisputable, you know, it's
14 something that we should be well aware of.

15 This should not be surprising. The
16 whole culture and philosophy of family court is to
17 focus on the problems specific to children and
18 young people, and to promote rehabilitation
19 whenever possible. In family court, there are
20 off-ramps at every stage of the process--from
21 arrest to adjudication to sentencing. In fact,
22 many juvenile cases never even make it to court
23 but are instead adjusted by probation, as they
24 should be. If the young person complies with
25 whatever conditions probation imposes--anything

1
2 from curfews, to letters of apology, to links to
3 services--then the case is closed and sealed and
4 no further action is taken.

5 Teenagers in family court are
6 technically charged--and this is very, very
7 important--with delinquency and not crimes--a
8 distinction with far-reaching implications.
9 Someone charged with delinquency does not receive
10 a criminal record, which means that he or she can
11 honestly state on applications for employment,
12 financial aid, and housing that they have never
13 been convicted of a crime. This can often be the
14 difference between someone who goes on to be a
15 gainfully employed productive citizen and the
16 person who becomes dependent on social services
17 or, worse, gets caught in the revolving door of
18 the criminal justice system.

19 If we as a City and State want to
20 achieve better outcomes for juveniles that change
21 their behavior and promote public safety, then the
22 right approach could not be any clearer: Better
23 outcomes would be achieved for everyone concerned
24 by adjudicating these cases in family court. The
25 bottom line is that the family court system gives

1
2 us a much better ability to intervene meaningfully
3 in the lives of troubled young people--before
4 minor problems escalate into major problems, and
5 without subjecting them to a criminal record.

6 So why haven't lawmakers raised the
7 age of criminal responsibility in New York? It
8 starts with just plain inertia. When the current
9 Family Court Act was adopted in 1962, the
10 legislature could not agree on the age of criminal
11 responsibility and so age 16 was chosen as a
12 temporary expedient until public hearings could be
13 held and additional research could be presented.
14 Unfortunately, the issue was never revisited, and
15 the temporary fix of 16, which even in 1962 was
16 already out of step with most of the country, has
17 remained frozen in time.

18 Of course, there are obvious fiscal
19 and logistical challenges that come with shifting
20 many thousands of cases a year from criminal court
21 to an already overburdened family court and
22 juvenile justice system. We may need additional
23 judges, certainly many more community service
24 options, and a stronger juvenile probation system.

25 Creating more alternatives to

1
2 incarceration also requires greater up-front
3 investment, however, the long-term benefits and
4 cost savings to the City and State will greatly
5 outweigh the initial outlays. In this regard, the
6 VERA Institute of Justice recently completed a
7 detailed cost-benefit analysis of North Carolina's
8 efforts to raise the age of criminal
9 responsibility to age 18, which found that the
10 short- and long-term economic benefits to the
11 State would far exceed the costs.

12 Clearly, many legitimate and
13 complex issues have to be addressed before we
14 raise the age of criminal responsibility--the
15 financial costs and benefits; the legal; public
16 safety; service delivery; and demographic
17 implications; and the inter-agency collaboration
18 that will be required among the courts, probation,
19 correction, prosecutors, defense providers, and
20 agencies dealing with families and children and
21 criminal justice. In order to work through these
22 issues and draft legislation for introduction
23 immediately at the beginning of the 2012 state
24 legislative session, I have asked the New York
25 State Permanent Sentencing Commission, Co-chaired

1
2 by District Attorney Cyrus Vance and Judge Barry
3 Kamins, to combine its expertise and resources
4 with that of Michael Corriero, who you'll hear
5 from today, the Executive Director and Founder of
6 the New York Center for Juvenile Justice. With
7 the support of our partners in government,
8 including the New York City Council, and by
9 reaching out to the many affected constituencies,
10 and to the many organizations that have already
11 done such terrific work in this area, I believe we
12 can produce a blueprint for a modern, effective
13 juvenile justice system that we can all be proud
14 of.

15 I want to thank, again, Council
16 Members Sara Gonzalez and Elizabeth Crowley for
17 co-sponsoring Resolution 1067, which calls on the
18 Legislature and the Governor to enact legislation
19 raising the age of criminal responsibility for
20 nonviolent offenders to 18 and permitting the
21 cases of 16 and 17-year-olds charged with such
22 offenses to be adjudicated in family court.

23 But even while we work together to
24 revise the law in New York, I believe we cannot
25 simply stand by and accept the status quo--not

1
2 when there are steps we can take now to improve
3 the way we handle older teenagers in our criminal
4 courts. That is why, also beginning in January
5 2012, we will establish new adolescent diversion
6 criminal court parts under the direction of Judge
7 Kluger, the Chief of Policy and Planning for the
8 Courts, in consultation with our Center for Court
9 Innovation. We will establish these pilot parts
10 in each and every borough of New York City, in
11 Nassau and Westchester, and in Syracuse and
12 Buffalo. Young people ages 16 and 17 charged with
13 misdemeanors and certain Class D and E non-violent
14 felonies will be assigned to specially-trained
15 criminal court judges with access to age-
16 appropriate services for troubled adolescents. In
17 these new court parts, judges will be specially
18 trained in adolescent brain development, trauma,
19 substance abuse, mental health, education, and
20 family issues, and will have access to new
21 sentencing options, including community service
22 and age-appropriate social service options that
23 promote personal accountability and build life
24 skills. The goal is to bring most of the benefits
25 of family court to criminal court, particularly

1
2 the ability to divert cases from the court system
3 through linkage to community-based services. By
4 complying with the conditions imposed by the
5 court, participating youth will be able to have
6 their charges dismissed or reduced to non-criminal
7 violations.

8 New York has a proud history of
9 being at the cutting edge when it comes to
10 juvenile justice reform. In the 1800s, this was
11 the first state to construct special facilities
12 that enabled children to be removed from adult
13 penitentiaries. As is so often the case, New York
14 set the bar back then, and other states followed.
15 With this kind of history and tradition, I just
16 cannot fathom how New York has allowed itself to
17 get so out of step with the rest of the country.
18 It really says something when avowedly tough-on-
19 crime states like Texas, Georgia, and Mississippi,
20 to name just a few, have all seen the wisdom of
21 prosecuting troubled young people in family court,
22 while New York continues to expose teenagers to an
23 adult criminal justice system that so often serves
24 as a breeding ground for career criminals. Let us
25 not be the last place in the entire country that

1
2 prosecutes 16-year-olds as adult criminals. This
3 cannot be what any of us wants for our city and
4 our state or for the future of our young people.
5 It is time for New York to once again take our
6 place at the national forefront of juvenile
7 justice reform.

8 I thank the Speaker, I thank the
9 Council, I thank Sara Gonzalez, and the entire
10 Members of the Committee for your support and for
11 having me here today to speak on this issue.
12 Thank you so much.

13 SPEAKER QUINN: Thank you very
14 much, Chair Gonzalez. Chair, before I ask a
15 couple questions, do you want to recognize the
16 other members who have come in?

17 CHAIRPERSON GONZALEZ: Yes, we have
18 Council Member Maria del Carmen Arroyo that has
19 joined us, and also Council Member Dromm, welcome.

20 SPEAKER QUINN: First, Chief Judge,
21 I just want to thank you again.

22 HON. JONATHAN LIPPMAN: Thank you.

23 SPEAKER QUINN: And I want to thank
24 you for putting in kind of a historical context,
25 which I certainly wasn't aware of. There's a good

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

additional [off mic] for me and there is a legislator, which is avoid saying you'll go back and fix something you couldn't figure out, make a decision when you have to make a decision; and if you do punt, make sure somebody put on the to-do list to go back and address the punt--

HON. JONATHAN LIPPMAN: Exactly.

SPEAKER QUINN: --later on.

HON. JONATHAN LIPPMAN: Exactly.

SPEAKER QUINN: And it's just a shame that, what ended up getting punted was children's lives and--

[Crosstalk]

SPEAKER QUINN: --you know, thank God, at least we're coming back around now to try to address that. And I think, you know, I can only imagine--look, I can't imagine any legitimate arguments to come up on this 'cause it seems like a no-brainer, particularly when you have such compelling facts from places right next-door--

HON. JONATHAN LIPPMAN: Right.

SPEAKER QUINN: --like New Jersey, and I would bet--and we might work through your staff to do this--if we pulled out, you know,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Essex County or parts of--

HON. JONATHAN LIPPMAN: Yes.

SPEAKER QUINN: --the state that
are more similar--

HON. JONATHAN LIPPMAN: Absolute.

SPEAKER QUINN: --to New York, you
see the same results, right?

HON. JONATHAN LIPPMAN: Even
greater, I would guess.

SPEAKER QUINN: So there's a
direct, you know, parallel there. That said, I
think, you know, people will say in their
arguments two things: One, this will foster
crime, you've refuted that, you know?

HON. JONATHAN LIPPMAN: Yeah, this
does not promote safety on our streets, what we're
doing, it's the opposite. You're breeding a whole
generation of criminals, it's an absolutely
counterproductive system.

SPEAKER QUINN: You know, and then
just a whole generation of hopelessness, do you
know what I mean?

HON. JONATHAN LIPPMAN: Without
question.

1
2 SPEAKER QUINN: Think of it, in all
3 of our lives, there's mistakes we made, and if
4 that one mistake cost you everything, that
5 question, have you ever been convicted of a crime,
6 we ask that here and when someone says, yes, I'm
7 made aware of it.

8 HON. JONATHAN LIPPMAN: Yes.

9 SPEAKER QUINN: Now we are
10 different than, you know, some other places, often
11 we find out the circumstances and say--

12 HON. JONATHAN LIPPMAN: Yeah.

13 SPEAKER QUINN: --good for you, you
14 know, come on, whatever, you know, come on board.
15 But think of it, it's such a serious thing that
16 the Speaker is notified, right? That means it's
17 serious, and in most places I'd bet the latitude
18 is not given that is given here and somebody's
19 life could just be completely, completely ruined.

20 HON. JONATHAN LIPPMAN: And it's
21 that one word, Speaker, that to use the word
22 accused of delinquency instead of crime--

23 SPEAKER QUINN: Absolutely.

24 HON. JONATHAN LIPPMAN: --is night
25 and day for the lives of so many people, so many

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

young people can go on and again lead a useful and meaningful life.

SPEAKER QUINN: And, you know, and at times, honestly a better life because they've had a second chance and often--

HON. JONATHAN LIPPMAN: Yes.

SPEAKER QUINN: --when you're given that second chance, you take it more seriously--

[Crosstalk]

SPEAKER QUINN: --you know, in my opinion. I think the other argument people will raise that will sound as if they're maybe not objecting to the underlying issues is the issue of logistics on this: Won't it cost a lot; isn't the criminal justice system too overburdened. And you began to talk about that, but just talk about it a little more because--

HON. JONATHAN LIPPMAN: Yeah.

SPEAKER QUINN: --you know, sure, it'll be a challenge, but other states have done it, so it's obviously doable.

HON. JONATHAN LIPPMAN: There's no question. I think the analysis in North Carolina that VERA did was based in part on, obviously, you

1
2 may be increasing costs in one part of the system,
3 but you're reducing it in other parts of the
4 system. And also what their analysis was based
5 on, this issue that you just raised, you're
6 reducing crime, you're reducing incarceration. So
7 I think, while there may be some initial outlays,
8 like I think it is very possible we'll need more
9 family court judges, on the whole, I believe that
10 the VERA study is right--not only in the short
11 range--not only in the long range, but in the
12 short range, I believe the costs will pan out on
13 the side of savings, not cost. And in the long
14 run, I absolutely in terms of, again, social
15 services, incarceration, the costs will be
16 dramatically different.

17 The other word that you used and I
18 think is important, and people do raise that, and
19 I don't think it's--again, it's a way to slow
20 things down, but it's not a meaningful as this
21 word logistics. Yes, I do believe it requires
22 collaboration between the different parts of the
23 criminal justice system, but we've done it on so
24 many issues it's not going to be a problem. In
25 fact, the people pulling together, including the

1
2 City Council, on this issue cross that whole
3 divide between all the different parts of the
4 criminal justice system and all the different
5 levels of state and city government.

6 So I see it already in trying to
7 work out legislation, get it before the
8 Legislature, I think this issue uniquely, of all
9 the criminal justice issues that we're dealing
10 with today, this is one that the Speaker called it
11 a no-brainer, and I agree, for any thoughtful
12 person, you know--in 2011, remember, this is since
13 1962, I think there's only one answer and I think
14 we're going to get the logistics in line, I do not
15 think that's a problem, I don't think the costs
16 are an issue.

17 I think the whole question is
18 getting out of this inertia that sometimes we have
19 these things are the way they are, well change is
20 difficult--we know change is difficult, but this
21 is an issue with long, long, long overdue.

22 SPEAKER QUINN: Thank you very
23 much, Judge, and, Judge--

24 [Crosstalk]

25 SPEAKER QUINN: --I just want to

1

2 apologize, in about ten minutes I have to leave
3 because I have to go to another appointment, but
4 thank you--

5 HON. JONATHAN LIPPMAN: Oh, thanks.

6 SPEAKER QUINN: --and everyone
7 very, very much. Thank you, Chair Gonzalez.

8 CHAIRPERSON GONZALEZ: Well I just
9 want to say before I begin to ask questions, I
10 especially want to thank Christine Quinn for her
11 leadership. Again, it takes that kind of person
12 and these kind of people like you, sir, Chief
13 Judge Lippman, to move forward. And I have to
14 say, as far as I'm concerned today, history is
15 being altered and--

16 HON. JONATHAN LIPPMAN: Well thank-

17 -

18 CHAIRPERSON GONZALEZ: --I know
19 that as a mother, a grandmother, a person in my
20 district, and I can speak for the entire city
21 because I represent part of this body, but I also
22 represent Brooklyn and my area, Sunset Park and
23 Red Hook, I know there have been a lot of parents
24 that have been devastated by the fact that their
25 children have been arrested, they're nonviolent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

crimes, they end up having to hire--

HON. JONATHAN LIPPMAN: Yes.

CHAIRPERSON GONZALEZ: --tremendous lawyers without money, they end up going through the system, sometimes even facing a lot of time on issues that probably were not that significant. And then later on as they get older--

HON. JONATHAN LIPPMAN: Exactly.

CHAIRPERSON GONZALEZ: --then they go back to school, they get their masters, they get everything they need, and then they go and try to get a job, and boom, there's the problem facing them again. So...

HON. JONATHAN LIPPMAN: It's a problem that shouldn't--they shouldn't have to navigate and I truly believe that, and I think I indicated this before, with the support of Speaker Quinn, with your support, with the support we have across the juvenile and criminal justice system, this is something I truly believe we can get done. You know, it's not like so many issues are so complex; here, it seems the optics of this to me are so clear.

CHAIRPERSON GONZALEZ: So again, I

1

2 just want to thank you, and I'll--

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

SPEAKER QUINN: [Interposing] It's

funny, I'm sorry, just when you were thinking is,

want to say one thing. You know, I aggressively

tell young people I know and people in my life,

don't put pictures where you look like you're

doing something wrong on Facebook because

employers look at Facebook, right? And I've tried

to get young people to get that through your head:

Colleges, employers look at Facebook. We're

talking about a criminal record here, right? Not

Facebook--

[Crosstalk]

SPEAKER QUINN: --and I tried to

get that through people's heads. You know, so

it's something that will never ever go away. And

I'll just share one last thing and then I'll try

to shut up, but I feel so strongly about what the

judge is doing. Recently I tried to get the exact

number of times I had been arrested for civil

disobedience as an adult and I couldn't because

they were all DATs, except for once when I went to

trial and lost--I know I was going to lose, that

wasn't the point--but they go away. Think about

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that.

HON. JONATHAN LIPPMAN: Exactly.

SPEAKER QUINN: They go away, you know, I got a DAT, but for this child--

HON. JONATHAN LIPPMAN: Yes--

[Crosstalk]

SPEAKER QUINN: --they'll never go away.

HON. JONATHAN LIPPMAN: Yeah.

SPEAKER QUINN: Never go, for love or money I couldn't get the exact number, I didn't want to lie to the New York Times, but, you know, that's a real statement, for this child, they'll never--

HON. JONATHAN LIPPMAN: Yes, yeah.

SPEAKER QUINN: --and they're just a child.

HON. JONATHAN LIPPMAN: Yeah, and you know what it highlights, we were talking about it before, but brain development.

SPEAKER QUINN: Yeah--

[Crosstalk]

HON. JONATHAN LIPPMAN: They want to be on Facebook, they want to have--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SPEAKER QUINN: Right.

HON. JONATHAN LIPPMAN: --their picture doing whatever it is, but it doesn't mean that they'd act the same way, you know, as a child than they do as an adult. Children are different, and we have to recognize that.

SPEAKER QUINN: Right, and you make that point always so well, sir, so thank you.

[Pause]

CHAIRPERSON GONZALEZ: And, again, you know, they do deviate from their characters and we need to remember this, but it's us in government and people like yourselves that are going to change history--

HON. JONATHAN LIPPMAN: Thank you.

CHAIRPERSON GONZALEZ: --so thank you. I just have a question in reference to obstacles. Do you foresee any obstacles in pushing your proposal along the state legislature?

HON. JONATHAN LIPPMAN: Well I think, as I think the Speaker mentioned before, doing anything in Albany is not the easiest job in the world, but I do think that we have a governor who is interested in getting things done; I think

1
2 we have a legislature that recognizes this issue,
3 I've talked to them both in the Assembly and the
4 Senate aside, we've had a lot of contact. So
5 while, of course, there's always the hurdle of
6 getting legislate, especially one as important as
7 this one. I think we can get this done, I really
8 do. And I say that in contrast to some other
9 issues where maybe there isn't the same public
10 support across the divide, as we like to say.

11 CHAIRPERSON GONZALEZ: Okay. Thank
12 you. And how do you think that New York will
13 overcome the logistical? Because I know we spoke
14 a little bit and you spoke about the financial
15 hurdles of moving tens of thousands of cases each
16 year from the criminal justice system to the
17 juvenile justice system.

18 HON. JONATHAN LIPPMAN: Well I
19 don't think--we want to demonstrate, that's why
20 we're putting up these parts right now, these
21 special parts in criminal court, we want to
22 demonstrate that this is not going to be some
23 Herculean effort to get done. We think we can do
24 it relatively seamlessly, we think we'll show all
25 of us here in the city and in the state

1 legislature that this can be done, so I don't
2 think the logistical hurdles are that different.
3 I think there is a little bit of a difference--and
4 I was talking with Judge Corriero about that
5 before we went on--there's a little bit of a
6 difference between upstate and downstate in how
7 our family and criminal courts work. But again,
8 we're doing these pilots across the city and
9 throughout the rest of the state, and I think
10 we'll be able to do this relatively seamlessly.

12 CHAIRPERSON GONZALEZ: And then
13 also, Chief Judge, in respect to family court and
14 the increase in the dockets, would that, in these
15 tough economic times, be something that, I guess,
16 as you go along, you look at as well?

17 HON. JONATHAN LIPPMAN: Well
18 without question, look, family court is really the
19 nitty-gritty of the court system, the judge is
20 there day in, day out, face all of the human
21 problems of families and children that are so
22 vital to this city and state, and I think they're
23 up to the task. Again, I would think we may need
24 some more family court judges, but they understand
25 how important the work is that they do and I think

1
2 that the family court, again, is the right place
3 to rehabilitate and to provide options. I use the
4 word in my statement off-ramps, that's what family
5 court had. Instead of going, here we go,
6 punishment and incarceration, we say, gee, these
7 are children, what can we do to make their lives
8 better to salvage, in many cases, their lives.

9 The family court asks what's the
10 problem behind--why is this person, this young
11 person in court, they say what's the family
12 problem, what are the issues. And you know what's
13 funny, we're talking about some people talk about
14 being tough on crime, soft on crime, when in many
15 cases, make no mistake, the family court on these
16 issues will be tougher than the criminal courts
17 that slap on the wrist and put them back on the
18 street. Family court says what's going on with
19 this family and they take steps to make it, you
20 know, work within the child's basic everyday
21 contact so...

22 CHAIRPERSON GONZALEZ: Okay. And
23 then as we go along, and I know throughout the
24 years we worked really hard on the Council with
25 all our advocates and all our organizations in

1
2 respect to alternatives to incarceration, and I
3 wonder do you believe that it would increase--will
4 we have more funding for alternatives to
5 incarceration? There will be a need for it
6 considering that these young people will have a
7 different direction.

8 HON. JONATHAN LIPPMAN: I think
9 there's absolutely no question that the
10 fundamental difference between the criminal court
11 and the family court in regard to these children
12 will be that there will be more alternatives to
13 incarceration, more community-based alternatives.
14 So, yes, without question, I think that's a basic
15 part of this program, and you'll see it in the
16 pilots that we run, we will be connected to
17 community services. Again, this is what children
18 need; they don't need to be put in jail to make
19 their lives better.

20 CHAIRPERSON GONZALEZ: And in
21 respect to the nonviolent felonies, do you think
22 that any will fall under this?

23 HON. JONATHAN LIPPMAN: Yes.

24 CHAIRPERSON GONZALEZ: Yes?

25 HON. JONATHAN LIPPMAN: We're

1
2 working on that. That's some of the issues that
3 we're trying to work out in these pilot parts and
4 in the legislation. We've been talking to Judge
5 Corriero and so many others, and that the
6 sentencing commissioners are looking at. Yes,
7 there definitely will be nonviolent felonies that
8 will fall into this.

9 We're not talking about, you know,
10 the violent, violent crime, the very serious
11 crime, where, again, the age is even lower, you
12 know, on murder and the really violent felonies.

13 CHAIRPERSON GONZALEZ: Chief Judge,
14 in your testimony spoke of about 45 to 50,000--

15 HON. JONATHAN LIPPMAN: Yeah.

16 CHAIRPERSON GONZALEZ: --young
17 people between 16 and 17. Would you say that
18 approximately that many offenders will be affected
19 or on a yearly basis or--

20 HON. JONATHAN LIPPMAN:
21 [Interposing] Yeah, I think it's a good starting
22 point. We're looking at all the numbers and
23 seeing exactly what the impact would be, but,
24 yeah, I think that's a good ballpark figure of
25 young people that age who get into the adult

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

system that, at least in our minds, shouldn't be there.

CHAIRPERSON GONZALEZ: Exactly. I would like to defer to Council Member Fernando Cabrera, he has some questions.

HON. JONATHAN LIPPMAN: Sure.

CHAIRPERSON GONZALEZ: Thank you.

[Pause]

COUNCIL MEMBER CABRERA: Thank you so much, Madam Chair. Chief Judge, welcome, I'm so excited about this bill, I love young people, I love working with young people, and thank you for being a champion in this respect.

I want to go back to a question that Chair Gonzalez mentioned regarding these off-ramps that you're--

HON. JONATHAN LIPPMAN: Yeah.

COUNCIL MEMBER CABRERA: --talking about, we're talking about 40,000--

HON. JONATHAN LIPPMAN: Yeah.

COUNCIL MEMBER CABRERA: --youth. Right now, the ATIs, many of the ATIs are in overload. How are we going to be able to handle all of these young people and it's quite a bit of-

1

2

-

3

[Crosstalk]

4

HON. JONATHAN LIPPMAN:

5

[Interposing] I think it's a good question.

6

COUNCIL MEMBER CABRERA: --of

7

youth.

8

HON. JONATHAN LIPPMAN: Yeah, I

9

think part of it, first of all, is to feed off

10

existing resources, you know, in a lot of our

11

court approaches we do community diversion, the

12

drug courts, so many other of the so-called

13

problem-solving courts, so I think to some degree

14

we can feed off those resources. We're looking

15

at, certainly, to support the pilot parts, grants

16

and foundation money to do some of that, but look

17

in the bottom line I have to tell you, whether

18

it's the City Council or the state legislature, we

19

need to support alternatives to incarcerating

20

people.

21

COUNCIL MEMBER CABRERA: Indeed.

22

HON. JONATHAN LIPPMAN: It's money

23

well spent in my mind, but I think we can do,

24

certainly at the initial stages, we can do a lot

25

of this with existing resources. But down the

1
2 road, this is the answer. Look at the savings in
3 general between putting people--look at the young
4 people when they put them in these horrible
5 places, there were high schools for crime at a
6 cost of \$200,000 a year per child, what a
7 travesty, what a horrible thing.

8 COUNCIL MEMBER CABRERA: Right.

9 HON. JONATHAN LIPPMAN: And a
10 diversion program, which costs a fraction of that,
11 can, again, save someone's life, particularly a
12 young person.

13 COUNCIL MEMBER CABRERA: Is there a
14 potential for in case that we don't have enough
15 ramps, off-ramps, at the beginning that since the
16 judges won't be able to find places or have places
17 available to them--no fault of their own, of
18 course--

19 HON. JONATHAN LIPPMAN: Right.

20 COUNCIL MEMBER CABRERA: --that we
21 will find some of the youth being detained, be in
22 juvenile detention because we don't have a--

23 [Crosstalk]

24 HON. JONATHAN LIPPMAN:

25 [Interposing] No, I don't think so.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER CABRERA: No? Oh--

HON. JONATHAN LIPPMAN: I think we're going to--you know, this is part of--we used that word, logistics before, this is part of running a quality court system and being able to give judges the training and the options that they need, but I think you're right, we have to really choreograph this in the right way. But, no, I think we can do that, I don't think--you know, I think it's going to be opposite, you're going to have less children detained, you know, is in my fervent hope and expectation.

COUNCIL MEMBER CABRERA: And here's my last question--

HON. JONATHAN LIPPMAN: Sure.

COUNCIL MEMBER CABRERA: --and that is, because I'm not familiar with the judicial system in this respect, you're going to have 40, 50,000 cases being moved, is it possible to move some of those judges that were dealing with--

[Crosstalk]

HON. JONATHAN LIPPMAN:
[Interposing] It is possible, they don't always like it, but, yes--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER CABRERA: Okay.

HON. JONATHAN LIPPMAN: --yes,
there is.

COUNCIL MEMBER CABRERA: You're the
chief.

HON. JONATHAN LIPPMAN: Yes, exact--
-I have the new Chief Administrative Judge here--

COUNCIL MEMBER CABRERA: Okay.

HON. JONATHAN LIPPMAN: --Judge
Prudenti, she's going to tell them they're going
to--

[Crosstalk]

COUNCIL MEMBER CABRERA: Okay.
Well, Chief Judge, thank you so much, what you're
doing requires tremendous amount of courage--

HON. JONATHAN LIPPMAN: Well thank
you.

COUNCIL MEMBER CABRERA: --and you
put yourself out there, but you're not out there
by yourself--

[Crosstalk]

HON. JONATHAN LIPPMAN: Oh, I
appreciate it.

COUNCIL MEMBER CABRERA: --behind

1
2 you, there's an army of people that really believe
3 in what you're doing, thank you so much.

4 HON. JONATHAN LIPPMAN: Well thank
5 you so much, greatly appreciate it, Councilman.

6 CHAIRPERSON GONZALEZ: Thank you,
7 Council Member Cabrera. Okay. Oh, Daniel Dromm.

8 COUNCIL MEMBER DROMM: Thank you.
9 I also agree with what has been said and with
10 almost everything that you've said in your
11 testimony, and I--

12 HON. JONATHAN LIPPMAN: Thank you.

13 COUNCIL MEMBER DROMM: --applaud
14 you as well, and I am a proud cosponsor of the
15 resolution as well.

16 HON. JONATHAN LIPPMAN: Thank you,
17 appreciate it.

18 COUNCIL MEMBER DROMM: Thank you,
19 and I've heard you speak before, I heard you at
20 the lesbian and gay dinner about a year or so ago--
21 -

22 HON. JONATHAN LIPPMAN: Yes.

23 COUNCIL MEMBER DROMM: --and I
24 appreciate your remarks in that regard as well so--
25 -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Crosstalk]

HON. JONATHAN LIPPMAN: Thank you.

COUNCIL MEMBER DROMM: --very much.

Just one thing that you had mentioned just briefly, the nonviolent felonies--

HON. JONATHAN LIPPMAN: Yeah.

COUNCIL MEMBER DROMM: --for us, when we argue this with our colleagues or whomever, what are those nonviolent felonies that you're envisioning?

HON. JONATHAN LIPPMAN: Well it's not clear yet, you know, we're talking about the low-level Ds and Es, we're just not sure. You know, this is the--you know, whenever you deal with criminal justice legislation, we have to be very careful that we don't make people feel that, gee, safety on the streets is being compromised, and I think there's a delicate line here as to the nonviolence and, you know, and how they should be treated. So at this point, I don't want to even put a list, this is what we're working on Judge Corriero, the sentencing commission, taking a look at what the law--and they're almost negotiations with the different DAs around the city and the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

state to say what kinds of cases, you know, should go into this pilot and ultimately into the legislation. So we're working on it. Look, my view is, if it doesn't compromise safety on the streets, kids are better treated with this approach. Where we draw that line, you know, not clear yet.

COUNCIL MEMBER DROMM: Maybe I'm thinking out loud--

HON. JONATHAN LIPPMAN: Sure.

COUNCIL MEMBER DROMM: --but drug issues come into mind and--

[Crosstalk]

HON. JONATHAN LIPPMAN: --drug issues, absolutely.

COUNCIL MEMBER DROMM: And I just think that, you know--

HON. JONATHAN LIPPMAN: Without question.

COUNCIL MEMBER DROMM: What I've seen happen sometimes is that young people get caught up and they're selling drugs, they're charged because of the amount perhaps, but basically it's for their own usage and they get

1
2 put into the system, they're 18 years old or
3 whatever, and they never seem to be able to get
4 out.

5 HON. JONATHAN LIPPMAN: You are
6 entirely 100 % right, the minor drug offenses are
7 certainly, you know, high up on that list of
8 thinking out loud.

9 COUNCIL MEMBER DROMM: Okay.
10 Great, thank you.

11 HON. JONATHAN LIPPMAN: Oh, my
12 pleasure.

13 CHAIRPERSON GONZALEZ: Thank you.
14 Well I just want to say, Chief Judge Lippman, I
15 thank you, it's an incredible honor to have you
16 today here with us. I know, and I will repeat and
17 be redundant in respect to you altering history, I
18 look forward to it. I hope that I'll be there
19 when they sign that legislation. You have a
20 friend--

21 HON. JONATHAN LIPPMAN:
22 [Interposing] We'll be there together.

23 CHAIRPERSON GONZALEZ: Okay. Got
24 it. You have a friend here definitely, and I
25 thank you because the future is our children.

1
2 Even if they do deviate from their character, we
3 need to be responsible as government and ensure
4 that they become productive citizens and I thank
5 you for your commitment to them.

6 HON. JONATHAN LIPPMAN: And I thank
7 you for your--

8 CHAIRPERSON GONZALEZ: Have a good
9 day.

10 HON. JONATHAN LIPPMAN: --support--

11 CHAIRPERSON GONZALEZ: Thank you.

12 HON. JONATHAN LIPPMAN: --of this
13 resolution and your support on this issue and all
14 the Council Members here today and Speaker Quinn,
15 it really is great, it gets us off to a really
16 strong start, because, again, as I think the
17 Speaker, you mentioned before, so many of these
18 kids are here in New York City--

19 CHAIRPERSON GONZALEZ: Yes, New
20 York City, exactly.

21 HON. JONATHAN LIPPMAN: --and we
22 have a responsibility to them. And, again, I
23 thank you all greatly for your support.

24 CHAIRPERSON GONZALEZ: Well, Judge
25 Lippman, you have certainly made my day, thank

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

you.

HON. JONATHAN LIPPMAN: Oh, thank

you.

[Off mic]

COUNCIL MEMBER DROMM: Okay. While our chair steps out for a moment, I'd like to call up the next panel. Michael Corriero, our judge; Raye Barbieri, Director of Implementation, Center for Court Innovation.

[Off mic]

COUNCIL MEMBER DROMM: Andrew Kalloch, I hope I pronounced your first name correctly, on behalf of Manhattan Borough President; and Steven Banks from the Legal Aid Society.

[Off mic]

CHAIRPERSON GONZALEZ: I just want to apologize to those folks sitting there, I was a little bit excited with Chief Judge and you too, Judge Corriero.

MICHAEL CORRIERO: Well, well, thank you.

RAYE BARBIERI: We're all excited.

[Off mic]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RAYE BARBIERI: It's an exciting day.

[Off mic]

CHAIRPERSON GONZALEZ: As soon as you're ready, you may proceed. State your name for the record. Thank you.

MICHAEL CORRIERO: Michael Corriero--

[Pause]

MICHAEL CORRIERO: Would you like me to just e-mail, Chairperson Gonzalez? Well first of all, I thought it was going to be a terrific day--is my mic on?

CHAIRPERSON GONZALEZ: Yeah--

[background noise]

[Off mic]

MICHAEL CORRIERO: Thank you, thank you. I thought it was going to be a great day because we came up in the elevator together, Councilwoman Gonzalez. First of all, I think you look around the room and you see, what I think, what I think is the Golden Age of juvenile justice reform in New York. I mean, we have a group of advocates in New York, who I'm sure you're going

1
2 to be hearing from and I want you to listen to
3 them, because the level of sophistication and
4 understanding of these issues is unsurpassed in
5 the nation, as far as I'm concerned. And what
6 we're talking about here is really restoring New
7 York to its rightful place as a progressive leader
8 with respect to juvenile justice issues.

9 And let me tell you how I look at
10 this issue and make myself very clear about where
11 I stand. You know, I am a child of this city, I
12 grew up in one of its immigrant neighborhoods--
13 Little Italy--I lived literally across the street
14 from the Tombs, the criminal court building. We
15 lived on the fifth floor of a tenement, three
16 small rooms. My father didn't have a steady job
17 until he was over 30, he became a longshoreman, or
18 he did the work of a longshoreman; my mother was a
19 seamstress on Lower Broadway in a sweatshop. They
20 sent me to school as quickly as they could because
21 they knew I was quite mischievous and trouble. As
22 my grandmother would say in Italian, she called me
23 in Neapolitan dialect, Mr. Fuoco [phonetic], Mr.
24 Fire, and I never knew what she meant until I got
25 a little older and I understood what she was

1
2 saying. But they sent me to school in Chinatown,
3 I went to school in Transfiguration.

4 And so the way I look at this
5 entire issue about how we're dealing with children
6 is framed by that experience. You know, a few
7 miles from here in our harbor stands a statue, the
8 Statue of Liberty, and it's no accident that it's
9 in New York's harbor because New York has always
10 been a place that was welcoming to the poor, the
11 vulnerable, and the displaced. And somehow or
12 another over the last 50 years or so we've lost
13 sight of the fact that we were synonymous with the
14 concept of the American dream, because in one
15 generation we went from that poor tenement
16 household to a judge. And as a 14-year-old kid, a
17 15-year-old kid standing on the corner of Mulberry
18 and Hester Street in Little Italy in the fifties
19 and the sixties, no one would have said that
20 Michael Corriero would be a judge. If anything,
21 they thought I'd be before a judge quite soon.

22 In any event, that's what animates
23 me, because I saw as a teenager how easily a
24 careless choice could draw one into a situation
25 that could affect your life forever. And so I

1
2 approach this whole issue from the perspective of
3 remembering what my adolescence was like and
4 remembering the fact that there were people and
5 institutions that treated me as a youth, that
6 treated me as someone with potential, that assured
7 me that I could go as far as my talent and hard
8 work would take me. And that there would be no
9 barriers to that progression that did not reflect
10 a true basis and common sense or nature.

11 So we already have initiated in the
12 city and state a number of efforts that are
13 beginning to look at this juvenile justice issue
14 in a more appropriate way.

15 And I want to commend, Chairwoman
16 Gonzalez, your staff because if you read the
17 preamble to this resolution, it is beautiful, it
18 is powerful, and it resonates the truth. And too
19 long we've denied the truth about children in this
20 city and this cannot be countenanced. And I think
21 the chief judge says that the optics here are so
22 clear that we are not treating children in the
23 right way, and I have to agree with him in that
24 regard.

25 So we have a mayor that's trying to

1
2 look at the issues in a more productive way by
3 trying to take over community-based programming,
4 we have a governor who has an urban agenda that
5 incorporated certain reforms, and now we have the
6 Chief Judge who's come out with a proposal that
7 impacts a significant number of young people under
8 our system. And in my view, not being a
9 politician, but being someone who is affected by
10 politicians, I want you all to work together--the
11 city, the state, the third branch of government,
12 the judiciary--to improve the lives of children,
13 work together in a spirit of collaboration and
14 coordination. Because everything that's done here
15 cannot be viewed in a piecemeal fashion because if
16 we tinker with one part of the system, it affects
17 the entire system. So we need to have an
18 overarching, an overarching strategy to deal with
19 this issue.

20 And that's what we've been trying
21 to work on in the New York Center for Juvenile
22 Justice. We can condense the mission of the
23 Center to four words: Judging children as
24 children. And that challenges all of us to
25 establish a legal framework for the adjudication

1
2 of young offenders that recognizes the
3 developmental differences between children and
4 adults, that responds to children's misconduct
5 with developmentally sensitive programming, and
6 provides room to reform through sentencing
7 strategies designed to avoid unnecessary
8 criminalization while simultaneously ensuring the
9 safety of the community.

10 I'm not going to review with you
11 the fact that there are 27,000 approximately kids
12 each year that in New York City that come in
13 contact with our criminal justice system, adult
14 criminal justice system. Nor am I going to review
15 the fact that we have one of the most draconian
16 laws that impact 13, 14, and 15-year-olds, never
17 mind the fact that we already set the age of
18 criminal responsibility as low as 16, where if you
19 steal a hubcap, you're going to be treated as an
20 adult. But if you're 14 years of age and you're
21 with your friends and one of them decides to do
22 something stupid, you're going to come into the
23 adult criminal court in any event and we don't
24 have the flexibility to deal appropriately with
25 those 13, 14, and 15-year-olds. And nor do we

1
2 have that flexibility with respect to the 16 year
3 olds that are coming into the system.

4 So altering the prosecution of
5 minors is more than merely a matter of principle,
6 it's about refining perceptions and, ultimately,
7 values regarding the lives of New York's children.
8 And that's probably as difficult, if not more
9 difficult, than getting legislation passed in the
10 state legislature. Increasing the age of criminal
11 responsibility and opening the family court
12 therapeutic services to all children under the age
13 of 18 will essentially transform the culture of
14 prosecution of minors from an intrinsically
15 punitive approach to a rehabilitative base model.
16 And this revision will have a complementary impact
17 on the collateral consequences of juvenile
18 misconduct by reducing unnecessary criminalization
19 of many youth currently subject to adult court
20 jurisdiction.

21 Now, the New York Center for
22 Juvenile Justice believes that New York must
23 replace the current unyielding statutory structure
24 and embrace a robust evidence-based juvenile
25 justice system that judges children as children.

1
2 That's a system that recognizes the developmental
3 differences of children, responds to their
4 misconduct with developmentally sensitive
5 programming, and provides them with room to
6 reform. In sum, there cannot be true systemic
7 reform of New York sentencing structure as it
8 applies to adolescent offenders unless New York
9 sets a fair, rational, and just age of criminal
10 responsibility. Expanding the age of juvenile
11 family court jurisdiction will result in fewer
12 adolescents prosecuted as adults and automatically
13 criminalized for their childish mistakes.

14 Although Judge Lippman's proposal
15 does not extend the age of criminal responsibility
16 to all youth under 18 years of age, we view the
17 chief judge's proposal as a significant
18 preliminary step in that direction. By offering
19 to expand the jurisdiction of the family court to
20 include almost all 16 and 17-year-olds who come
21 into contact with the adult criminal court, Chief
22 Judge Lippman has ignited a serious and productive
23 discussion about so many of the teenagers who come
24 into contact with our system and, up until now,
25 have simply been perceived and treated as adults.

1
2 The Chief Judge's proposal will
3 sharpen the lens by which we view children under
4 18 years of age who are accused of crimes. It
5 will move us closer to a model of juvenile justice
6 that will restore New York to its rightful place
7 as a progressive leader, making good on the
8 promise etched in stone at the base of that statue
9 in our harbor.

10 Thank you.

11 CHAIRPERSON GONZALEZ: Before we
12 proceed, because I'm not sure whether you're going
13 to stay or--

14 MICHAEL CORRIERO: I'll stay.

15 CHAIRPERSON GONZALEZ: Oh, good,
16 okay, so because I did have something I wanted to
17 share with you, but--

18 MICHAEL CORRIERO: Sure.

19 CHAIRPERSON GONZALEZ: --let's move
20 on to the next....

21 MICHAEL CORRIERO: Sure.

22 RAYE BARBIERI: Sorry.

23 MALE VOICE: Sorry.

24 RAYE BARBIERI: Good morning, I
25 have the challenge of following Judge Corriero,

1
2 always a very difficult challenge, I find myself
3 getting choked up.

4 Good morning, I'm Raye Barbieri,
5 I'm the Director of Implementation at the Center
6 for Court Innovation. And thank you for giving me
7 this opportunity to speak on and to support Judge
8 Lippman's proposal to raise the age of criminal
9 responsibility, and to support Resolution 1067.
10 And also to support Judge Lippman's proposal that
11 he discussed to create specialized adolescent
12 diversion parts in the criminal courts that can
13 help us navigate and chart a course for continued
14 change as we move forward.

15 Excuse me. As many of you know,
16 the Center for Court Innovation is a public-
17 private partnership and we're devoted to improving
18 public confidence in the justice system. We do
19 that through research, technical assistance, and
20 through many demonstration projects, many of which
21 focus on juvenile justice. We currently operate
22 juvenile justice projects in each of the city's
23 five boroughs. Among our programs are
24 alternatives to detention; alternatives to
25 placement; teen courts, which we call youth courts

1
2 that serve as diversion from the justice system
3 for young people cited and arrested by the police;
4 we have a unique juvenile mental health program in
5 Queens and in the Bronx; an anti-gun violence
6 program in Crown Heights; a special respite
7 program in Staten Island that keeps young people
8 in schools and out of detention while their cases
9 proceed through family court; and then we have
10 community courts in Red Hook, Harlem, Midtown,
11 and, in the not-too-distant future, Brownsville,
12 Brooklyn.

13 Our extensive work with young
14 people caught up in and at risk for involvement
15 with the justice system has given us a pretty
16 unique perspective on the need for comprehensive
17 reforms and strategies and has also positioned us
18 to be a eager participant in that process.

19 As both Judge Lippman and Judge
20 Corriero have noted, New York will soon be the
21 only state in the nation where 16 and 17-year-olds
22 are treated as adults. This can't continue, we
23 need change. And we know what to do, we can learn
24 much from many of the other jurisdictions that
25 have already made the necessary changes and that

1
2 have demonstrated that we also can continue to
3 reduce reliance on confinement while
4 simultaneously reducing offending.

5 I think one of the issues that
6 keeps coming up is logistics, and I want to talk a
7 little bit more specifically about the adolescent
8 initiative, the diversion parts that Judge Lippman
9 discussed because I think that it speaks to that
10 issue in particular. As you know, young people
11 who are under 16 at the time of an offense are
12 processed through the juvenile justice system
13 where the Department of Probation is the initial
14 gatekeeper. Probation conducts an intake
15 interview with each case, contacts complaining
16 witnesses, and determines if diversion, or
17 adjustment from the court system through the
18 provision of individualized social services and
19 monitoring, might be an appropriate option in the
20 case. In cases where complaining witnesses
21 consent, and where parents and/or guardians are
22 willing and able to provide supervision and
23 support, probation can elect to adjust the case
24 while linking that young person to age-appropriate
25 services in the community. If that youth

1
2 successfully completes those services, the case is
3 concluded and the record is sealed.

4 In this way, thousands of low risk
5 young people in the city are successfully diverted
6 from the system while being linked with precisely
7 the social services they need to avoid further
8 contact with the justice system. So adjustment in
9 many ways out of family court is one of the best
10 things about family court.

11 Unfortunately, the criminal justice
12 system offers no such off-ramp--I'll steal Judge
13 Lippman's terminology, apologies--but there's no
14 such off-ramp, there's no such thing as adjustment
15 for these same kids one month later being charged
16 as adults. Regardless of the severity of the
17 offense, once arrested and a decision to prosecute
18 is made, the young person's case goes through the
19 gauntlet of the criminal system's process.

20 Thousands of these cases are processed through the
21 criminal court every year. We've heard up to
22 26,000 cases in New York City alone. And of those
23 cases, between 75 and 80 % are misdemeanors,
24 mostly low-level offenses. Now while some of
25 these matters might be appropriate for the

1
2 criminal system, many of these cases would benefit
3 much more from an approach that mirrors the
4 juvenile adjustment process, with diversion from
5 court through linkages to services.

6 Beyond reducing the burden on the
7 court system--quite frankly, many of the cases
8 don't need to be in court in the first place--
9 diversion for these low-level offenses will help
10 young people avoid the criminal record and the
11 potentially devastating consequences that flow
12 from a negative criminal case outcome. Judge
13 Lippman's adolescent diversion parts would
14 emphasize court outcomes designed to help teenage
15 defendants avoid legal and collateral consequences
16 associated with criminal prosecution and put in
17 place links to services to help young people
18 pursue law-abiding, productive futures. Specially
19 trained judges--with training in adolescent brain
20 development, youth skill building techniques,
21 evidence-based techniques and practices, mental
22 health issues, substance abuse, as well as
23 educational issues--would oversee these parts and
24 would have access to enhanced sentencing options
25 that include short-term social service

1
2 interventions--assessments, workshops devoted to
3 conflict resolution, civic responsibility, life
4 mapping, mental health, vocational and educational
5 goal setting, as well as community service. In
6 general, these programs would seek to use short-
7 term interventions as a springboard to voluntary
8 engagement in longer-term services. In many
9 instances, adolescents could be referred to teen-
10 led youth courts where they would appear in front
11 of a true jury of their peers and receive
12 sanctions that are both restorative and designed
13 to engage young people in ongoing services. In
14 fact, the utilization of a youth court in Staten
15 Island has already proven to be a highly effective
16 criminal court disposition option.

17 The goal of this adolescent
18 initiative, the adolescent diversion parts, would
19 be to bring some of the benefits of the family
20 court to criminal court. And, given the absence
21 of diversion options in the adult system, these
22 parts could create a de facto adjustment process
23 for cases involving young adolescents. By
24 satisfying the conditions imposed by the court--
25 attending mandated social services sessions,

1
2 and/or performing community service--participating
3 defendants would be able to earn an outright
4 dismissal in some cases or have their charges
5 reduced to non-criminal violations, thereby
6 avoiding the collateral consequences and the long
7 ranging impact of a criminal conviction.

8 Through the problem solving
9 approach to delivery of justice, successfully
10 implemented through the state and the community
11 courts, drug courts, domestic violence courts,
12 mental health courts--this has clearly
13 demonstrated that courts can play a significant
14 role in changing behavior, reducing offending, and
15 helping individuals down the road to productive
16 futures. Together with the family court, which is
17 the original problem-solving court, New York State
18 and City have made tremendous strides on the path
19 to juvenile justice reform, efforts that have
20 dramatically reduced the numbers of young people
21 who are removed from their schools, their
22 families, and their communities. And indeed, New
23 York City has successfully created a wide
24 continuum of community-based care and supervision
25 in every borough, including programs run by the

1
2 Center--QUEST in Queens and Project READY in
3 Staten Island. These programs help teenagers
4 charged with delinquency get back on track by
5 providing supervision, support, and services while
6 they remain in their schools and communities.
7 There are programs in every borough run by legions
8 of community social service providers, youth
9 serving organizations, treatment programs,
10 alternatives to placement, alternatives to
11 incarceration. And citywide in the alternative-
12 to-detention programs, 81 % of youth remain
13 compliant with program conditions, including
14 school attendance and curfew, appear for court as
15 directed, and are not re-arrested. We know what
16 to do, we can do it, it's been demonstrated both
17 here in the city in the ATD programs, as well as a
18 host of other efforts, as well as in states across
19 the country.

20 Judge Lippman's proposal seeks to
21 bring those same problem-solving approaches to 16
22 and 17-year-olds in the adult system. By holding
23 young people accountable, while offering targeted
24 services and programming, the adolescent diversion
25 initiative will build upon the lessons learned

1
2 through the wide-ranging reforms already
3 implemented in the City's system and apply those
4 benefits to young people caught up in the adult
5 system. Judge Lippman's initiative does not
6 require legislative reform, we're already working
7 on it and hope to have parts starting just after
8 the first of the year in January, both in every
9 borough in the city, as well as in four other
10 jurisdictions upstate. These parts will provide
11 an opportunity to test the effectiveness of the
12 family court model on the older adolescent
13 population.

14 Where family court seeks to achieve
15 outcomes that are in the best interests of child,
16 the criminal court's approach has always been more
17 retributive. But these new pilots will adapt the
18 strategies and approaches that work well in family
19 courts to 16 and 17-year-olds. There is much the
20 criminal system can learn from the juvenile system
21 when it comes to handling adolescents, and we've
22 all discussed, research in the field has
23 consistently found that consigning adolescents to
24 the adult criminal justice system is a recipe for
25 failure--it fails to improve behavior and it

1
2 increases the likelihood of future criminality.
3 The time's ripe--beyond ripe, to do what 48, and
4 soon 49, other states have chosen to do--to treat
5 adolescents as the children they are and not
6 pretend that they are adults. Implementing the
7 Chief Judge's recommendation will benefit public
8 safety and improve the prospects for safe and
9 productive futures for scores of young people.

10 Thank you.

11 CHAIRPERSON GONZALEZ: Thank you.

12 Go ahead.

13 STEVEN BANKS: My name is Steven
14 Banks, I'm Attorney-in-Chief for the Legal Aid
15 Society. Thank you for giving us an opportunity
16 to testify, you have our written testimony for the
17 record, I just want to highlight a few elements in
18 it.

19 Going after Chief Judge Lippman and
20 Judge Corriero, my colleague from the Center for
21 Court Innovation, there's not a lot of issues left
22 to highlight so, in part, I want to lend our
23 support to the--and embrace the comments in the
24 testimony of Judge Lippman and as added to by
25 Judge Corriero and the Center for Court

1
2 Innovation. However, there are a few points that
3 I just wanted to highlight.

4 First, as you know, the Legal Aid
5 Society, in addition to our civil legal services,
6 which you're familiar with, has both a criminal
7 and a juvenile rights practice, and here with me
8 today is Nancy Ginsburg, who's the Director of our
9 Adolescent Intervention and Diversion Project
10 within our criminal practice, and I think you know
11 as well Tamara Steckler, who's not here today, who
12 runs our juvenile rights practice.

13 But we operate probably the
14 largest, what is the largest legal services
15 program in the United States for exactly the
16 population that will benefit from what the reforms
17 are, and so we see the progression of young people
18 from family court to criminal court on a
19 tremendously different outcome in their lives as a
20 result of which door they happen to walk through.
21 So we're very pleased to be working with Chief
22 Judge Lippman and soon Chief Administrative Judge
23 Prudenti, on how these new pilots are going to
24 work because we feel that the vantage point from
25 our juvenile rights practice and our criminal

1
2 practice will bring to bear in these new parts
3 exactly what the perspective needs to be, which is
4 a full comprehensive view of what young people
5 need to get literally a second chance.

6 I was struck by Judge Corriero's
7 testimony about the fifties and sixties about
8 getting a second chance on the streets of Mulberry
9 and Hester, I won't say what street corner I was
10 on, but I know exactly what he means. And I guess
11 I would say that under oath for the record.

12 MICHAEL CORRIERO: Right.

13 STEVEN BANKS: But I think that--

14 [Crosstalk]

15 MICHAEL CORRIERO: --limitations.

16 STEVEN BANKS: It's a very long
17 statute of limitations. I think what's important
18 to bear in mind is all the things that have
19 happened in the last 25 years, our testimony
20 highlights the reality that New York State is in a
21 time warp. The concept of treating young people
22 this way goes back to the 1880s and, as Judge
23 Lippman said, in 1962 we had a chance to do
24 something different and we put a placeholder in
25 and, as the Speaker so astutely observed, that's

1
2 the danger of placeholders. But a lot has
3 happened in these last number of years.

4 People have their views of the
5 United States Supreme Court and whether they
6 embrace their rulings or not, but the United
7 States Supreme Court is ahead of the State of New
8 York in terms of its policy views of how young
9 people should be treated, and there's a whole
10 series of decisions--Roper and others--talking
11 about looking at young people differently, looking
12 at the fact that scientific evidence shows the
13 brain development and the psychosocial development
14 lead to different kinds of behavior that once you
15 get into your twenties you regret, but if you've
16 been processed for the criminal justice system,
17 you don't have the opportunity to undo that what
18 you did and you're left with more than the regret,
19 you're left with collateral consequences. And the
20 law at the same time as has been frozen in New
21 York, across the country, as well as in New York,
22 has moved in the direction of having collateral
23 consequences for criminal conduct.

24 So now the stakes are a lot higher
25 actually than in 1962, 1962 or in the 1950s and

1
2 1960s on Mulberry and Hester, there weren't the
3 kind of consequences for the conduct that people
4 are now sucked into the criminal justice system
5 for when they're accused of doing it. So
6 consequences financial aid and education,
7 consequences for housing, for benefits, for
8 employment, for immigration. These are all new
9 developments that have occurred that make the
10 mistake of not dealing with this issue in 1962 all
11 the more important.

12 At the same time, look at what age
13 of responsibilities we do have with respect to
14 certain conduct you might observe in the streets
15 of New York. Notwithstanding the Mayor's efforts,
16 smoking is tied to the age of 18; drinking, tied
17 to the age of 18; and I know near and dear to this
18 body, voting, tied to the age of 18. But when it
19 comes to this particular population, the issues
20 that are stake for them, they're treated
21 differently than we look at them for voting, for
22 smoking, and for drinking. If nothing else, that
23 gives you a good reason for reevaluating the
24 current situation.

25 In our testimony, we present some

1
2 of the very striking scientific evidence that we
3 would ask that you take a look at, and obviously
4 include in the record--evidence from Laurence
5 Steinberg, evidence from a study done by the
6 Allstate Insurance Company, evidence from the
7 Department of Justice--all of that is making the
8 point that Chief Judge Lippman made so
9 compellingly about adolescent brain development,
10 adolescent psychosocial development. And in
11 common sense terms, all of that research tells you
12 that teenagers will be teenagers. And all of that
13 research tells you that there's something about
14 teenagers together that's different than people in
15 their twenties in terms of what happens, and what
16 you get caught up in, and what the consequences
17 are. There are fascinating studies that we've
18 summarized in the testimony about observing
19 teenage behavior and the difference of adding
20 another person and adding another teenager to that
21 behavior and it almost becomes an accelerant for
22 what unfolds.

23 All of that continues to be the way
24 we treat teenagers, all of that continues to be
25 ignored in the way we treat teenagers, and the

1
2 importance of Chief Judge Lippman's proposal is
3 that it takes advantage of what we've learned in
4 the last 25 years in terms of scientific
5 knowledge, in terms of psychosocial knowledge, in
6 terms of the Supreme Court decisions, and in terms
7 of everything else. But in the end, his proposal
8 does just that, it treats teenagers like teenagers
9 and gives them a second chance, which is what we
10 would want for our kids, what we wanted for
11 ourselves, and what we ought to want for every
12 other person in New York City in that age group.

13 ANDREW KALLOCH: Good morning,
14 Chair Gonzalez and members of the Committee, my
15 name is Andrew Kalloch, I'm a lawyer and I work in
16 the policy unit for Manhattan Borough President
17 Scott Stringer. You know, I'm having a little bit
18 of déjà vu this morning listening to Judge
19 Corriero, because, as an intern with Mr. Banks'
20 organization some years ago, I heard the same
21 passion directed toward prospective jurors. And I
22 am completely--

23 MICHAEL CORRIERO: Are you that
24 old?

25 [Laughter]

1
2 ANDREW KALLOCH: I am completely
3 unsurprised that he has continued to bring that
4 passion to bear after the bench, so I appreciated
5 listening to him, as well as everyone else.

6 I'm testifying on behalf of Borough
7 President Stringer, and Borough President Stringer
8 is proud to support bringing New York's juvenile
9 justice system into line with those of our sister
10 states, and he urges the Council to adopt this
11 resolution.

12 Recent advancements in psychology
13 have confirmed what parents have long known, which
14 is that teenagers take longer to judge something
15 to be a bad idea and have significant differences
16 in cognitive processing that affect their ability
17 to make sound judgments. The research has spurred
18 a national consensus that youth are less culpable
19 than adults because they do not fully comprehend
20 the consequences of their actions and, thus,
21 require a different response from the justice
22 system.

23 While advancements in the science
24 of adolescent psychology have added additional
25 support for treating minors differently than

1
2 adults, we have long been aware of the deleterious
3 effects that the criminal justice system imposes
4 on our young people and the state as a whole.
5 We've heard the numbers already this morning from
6 the Chief Judge and others on this panel, but they
7 are worth repeating because they are truly
8 startling: New York now spends roughly \$266,000
9 per child per year housing youth offenders in
10 adult facilities. And, while the number of youths
11 in these facilities has declined over the last
12 couple years, the level of incarceration is still
13 sufficiently high, such that it costs the State
14 millions of dollars a year in incarceration costs.

15 And what do we get for that
16 investment? We get an 89 % recidivism rate for
17 boys, and an 81 % recidivism rate for girls over a
18 10-year period, and those numbers only lend
19 credence to the idea that placing youth in adult
20 facilities makes them more likely to re-offend
21 than those who have spent time in juvenile
22 institutions.

23 And of course, as shocking as the
24 numbers are, they really fail to tell the whole
25 story. New York's juvenile justice system has

1
2 been broken for decades and the juvenile justice
3 advisory group just this past December issued a
4 scathing report about just that, concluding that
5 the juvenile justice system is ineffective,
6 overpriced, and fosters brutal results.

7 Mr. Banks mentioned the collateral
8 consequences of criminal convictions and the
9 incredible rise in those consequences in recent
10 years. It's important to note that those
11 consequences are not equally shared across all
12 racial and ethnic groups in New York City and New
13 York State. Instead, Black and Hispanic youth in
14 urban environments like New York City are
15 disproportionately affected by these consequences.
16 According to the Urban Justice Center last year,
17 Black and Hispanic youth accounted for 91 % of all
18 juvenile arrests in New York City. Moreover,
19 studies by the civil rights organization
20 Advancement Project show that African-American
21 students are far more likely than their white
22 peers to be suspended, expelled, or even arrested
23 for precisely the same conduct in schools.

24 So the policy change proposed by
25 Chief Judge Lippman will keep thousands of New

1
2 York City teenagers--the majority Black and
3 Hispanic--out of the criminal justice system and
4 on the right track toward higher education and a
5 productive future. It will dramatically reduce
6 the cost of processing thousands of low-level
7 cases through the criminal system every year, and
8 all but eliminate the tens of millions spent
9 incarcerating minors who commit non-violent crime.

10 Now the borough president has said
11 repeatedly that in order to be tough on crime, you
12 must be smart on crime. He said this in the
13 context of calls for reforming the NYPD's stop and
14 frisk system, which is one of many things that
15 brings thousands of young people into the criminal
16 justice system in our city every year. And Chief
17 Judge Lippman's plan is both tough and smart.
18 It's grounded in a modern understanding of child
19 psychology and offers an empathetic approach to
20 juvenile justice that promises to promote the best
21 interests of at-risk youth, not shuttle them down
22 the well-worn path to criminality.

23 The proposed reform is a necessary
24 and progressive step in transforming New York's
25 juvenile justice system and the borough president

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

urges the City Council to pass the resolution.

Thank you very much.

CHAIRPERSON GONZALEZ: Thank you.

Thank you. I just want to start first with Judge Corriero. I want to say to you, sir, you've been a leader, you've been a partner, I am so incredibly inspired with your life because everything that you have done has brought you to this place, and that's very significant to us. Your reputation exceeds you.

MICHAEL CORRIERO: Can I tell you

one--

[background noise]

MICHAEL CORRIERO: --my deputy,

Yuval, says that God wants us to raise the age of criminal responsibility. So I think that's what you're talking--

[Crosstalk]

CHAIRPERSON GONZALEZ: Okay.

Great. So with that said, I think I certainly am honored to have you here today as well. You mentioned that currently we try 13, 14, and 15-year-olds in criminal court for violent crimes, they are tried as juvenile offenders. Do you

1
2 think the new legislation would provide that 16
3 and 17-year-olds be tried as juvenile offenders so
4 that the kids can remain in juvenile facilities
5 until they turn 21?

6 MICHAEL CORRIERO: Well, you know,
7 I'm part of the working group that's working on
8 the legislation and in many ways--this is not off
9 the record, I guess, but I'll put it on, what do I
10 care, I'm retired--but in many ways working with
11 the commission is like a mini legislature, you
12 know, talking about give and take and compromise
13 and points of view. Because we have a very good
14 mix of people on that commission--we have
15 prosecutors, we have defense lawyers, we have
16 people who are not lawyers and who are
17 researchers, and what have you. So a lot of this
18 is first education, and I think I'm in a good
19 position because of my experience, having presided
20 over the youth part, having had the responsibility
21 of sentencing so many 13, 14, and 15-year-olds,
22 and familiarizing myself with the juvenile
23 offender [off mic]. I think I'm in a good
24 position to educate the various groups that don't
25 deal with kids regularly and routinely, but I also

1
2 feel that what we've been trying to do, for
3 example, the Chief Judge talked about off-ramps in
4 the family court. Well I'm trying to talk about
5 off-ramps in the criminal court for the 16 and 17-
6 year-olds. I'm talking about systemic flexibility
7 for kids who may very well be initially prosecuted
8 in the adult court, but judges don't have the
9 authority to kind of say wait a minute, wait a
10 minute, this kid is different, this kid has
11 potential, let me get them out of here and put
12 them in the family court where I can link him with
13 services. I'm talking about expanding the judge's
14 authority in--adult court judges, you know, as an
15 adult court judge, I didn't have the same
16 dispositional authority as a family court judge
17 when I was dealing with a 14-year-old kid who was
18 part of a group robbery. So if I wanted to place
19 that kid in a mental health institution, the law
20 didn't permit that, the only option I had was an
21 indeterminate sentence to the Office of Children
22 and Family Services or the granting of youthful
23 offender treatment, placing a kid in probation and
24 probation was overwhelmed to begin with, and he
25 wasn't going to get the kind of mental health

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

services he needed.

And so there was a frustration and continues to be a frustration on the part of the adult court judges dealing with 13, 14, 15, 16, and 17-year-old kids, who after an analysis of the factual underpinnings of the case and their backgrounds, a judge might say, gee, you know, we need another option here other than detaining a kid for a year at the cost of \$260,000 and then his coming out or her coming out with a recidivism rate of 60 to 80, 90 % after ten years. I mean, it's just not acceptable. I think our Governor said it, he said, you know, he said, the most passionate part of his State of the Union speech was when he talked about juvenile justice.

And that's one of the things I'm trying to have filter up to the governor, that this involves his passion and if he wants to make New York the progressive leader that it once was, he's got to look at this in the way that we're doing.

So yes, unfortunately, the way in which Judge Lippman has preceded, which is, from my point of view, an incremental approach to

1
2 dealing with juvenile justice. I think he's
3 looking at the realities of what can happen in our
4 state legislature at this moment in time. And so
5 we are working trying to work within the
6 commission to work within his framework of his
7 proposal because, after all, that was his charge,
8 here's my proposal, now you come up with some way
9 of dealing with the kids, get some of the kids who
10 are accused of felonies into the family court.
11 But even those 16 and 17-year-olds that are in the
12 adult court--now I'm not speaking for the
13 commission now, I speak for myself--even those 16
14 and 17-year-olds, I am trying to make the point
15 that even they need off-ramps, even the 16 and 17-
16 year-olds, as well as the 14 and 15 need off-ramps
17 so that we can identify and safely channel out of
18 the system appropriate children.

19 CHAIRPERSON GONZALEZ: Thank you.

20 And--

21 [Crosstalk]

22 MICHAEL CORRIERO: [Interposing]

23 Does that answer your question? I'm not sure if
24 it--

25 CHAIRPERSON GONZALEZ:

1
2 [Interposing] Yes, and the one thing that I just
3 want to say is, you know, the partnership of
4 people like yourself is so significant, I can't
5 even repeat myself more, thank you. Thank you so
6 much.

7 And then to Raye Barbieri, I want
8 to thank you for your commitment, your expertise
9 to this field, to young people, and I also want
10 you to please thank Judge Calabrese who's done an
11 incredible job in his role in Red Hook Justice. I
12 mean, these are folks and these are judges that
13 touch people's lives, they have no idea. I mean,
14 because they exist, our children today, despite
15 the lack of some legislation, the frustration we
16 have with a lot of the different things that are
17 going on with our children, those people have made
18 a difference, and I want you to let him know.

19 And then we're going to go on to
20 Steve Banks. I want to say to Steve, thank you so
21 much for everything you stated, all your
22 commitments to our city, especially in respect to
23 Legal Aid because I know it's so many different
24 areas you cover, but today in respect to this
25 legislation and to support what we do here. Thank

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

you, Steve.

And this is for you this question, Steve. If the age of criminal responsibility is raised from 16 to 18, would Legal Aid be able to shift its resources to its juvenile--I'm sorry, I don't have my glass--juvenile rights practice to handle the increase of juvenile delinquency case in family court, or do we have to fight for further funding in the Council? No, I just added that part.

STEVEN BANKS: Well I'm going to take a page from the Chief Judge, which is to say, all of this is part of what the process is going to be. I will say that our juvenile rights practice is funded by the Office of Court Administration and our criminal defense practice is largely funded by the City, but in terms of the funding to reduce our caseloads, that's also from the Office of Court Administration. So as the proposal progresses, focusing on which part of our organization will have the bulk of the representation in these cases is certainly something that will be part of the conversation with the Office of Court Administration. We know,

1
2 having implemented the limitation in our caseloads
3 in our juvenile rights practice with the Office of
4 Court Administration and now in the process of
5 doing the same for our caseloads in the criminal
6 defense side, that the Chief Judge, the Chief
7 Administrative Judge and OCA, I feel very strongly
8 about clients being represented by lawyers with
9 proper numbers of cases 'cause cases are people.
10 So I think we have a high degree of confidence
11 that there will be a focus with the Chief Judge
12 and others at OCA about how best to do this.

13 And in many respects, it's the
14 right moment to be in a place where OCA is
15 providing funding for both the practices and we'll
16 work it out in terms of what's best for the
17 clients, which after all, is the reason why we're
18 here.

19 CHAIRPERSON GONZALEZ: And then to
20 Andrew Kalloch, who is here today representing our
21 borough president, Scott Stringer from Manhattan,
22 thank you for his support. Please let him know
23 that I send my regards, and his support in this
24 issue is very significant to us, thank you.

25 ANDREW KALLOCH: Thank you, Chair.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CHAIRPERSON GONZALEZ: And then I just want to say that Councilman Sanders was here, James Sanders, and he has signed on to the Intro, so that's for purpose of information. Thank you folks, have a good day.

MICHAEL CORRIERO: Andrew, you were on my jury?

ANDREW KALLOCH: No, I was sitting at the--

[background noise]

CHAIRPERSON GONZALEZ: Liz Ryan, Steven--

FEMALE VOICE: Stephanie Gendell.

CHAIRPERSON GONZALEZ: I'm sorry, Stephanie Gendell, I really--let me put on my glasses. Okay. Avery Irons, of course, and Gabrielle Prisco, please step to the table, thank you. State your name for the record.

FEMALE VOICE: Thank you.

[Off mic]

CHAIRPERSON GONZALEZ: As soon as you're ready, you could proceed, please state your name for the record. Thank you.

[Off mic]

1
2 FEMALE VOICE: You should go
3 because they don't have our written testimony.

4 LIZ RYAN: Okay. Liz Ryan,
5 Campaign for Youth Justice. Thank you, Madam
6 Chairwoman for having me today. My name is Liz
7 Ryan, I'm here on behalf of the Campaign for Youth
8 Justice, we are a national initiative dedicated to
9 ending the practice of trying, sentencing, and
10 incarcerating children in the adult criminal
11 justice system. We serve as a clearinghouse on
12 this issue, we work with elected officials,
13 advocates, families, and young people all over the
14 country. And so I want to applaud this committee
15 for raising this issue, and also for Peggy Chan
16 for reaching out to me and inviting me to be here
17 today.

18 I'm not going to repeat what was
19 said earlier, I just want to give a little bit of
20 a national snapshot on this issue around the
21 country. And before I say that, I want to preface
22 that by saying that there is very limited national
23 data on this issue. The Office of Juvenile
24 Justice and Delinquency Prevention released a
25 report recently showing that only 13 states

1
2 collect data on kids in adult criminal court, so
3 these data gaps make it challenging to assess
4 trends as well as to adequately compare across
5 states. But we do know a number of things, so I
6 want to just recap quickly what we do know.

7 Sort of ten key facts. One is that
8 nationally, roughly 250,000 kids are prosecuted in
9 adult criminal court every year, and on any given
10 day there 10,000 kids in adult jails and prisons,
11 and that number is magnified by 12 to 20 times
12 over the course of a year. So we have a lot of
13 kids in adult criminal court, and here in New
14 York, you have 47,000 kids, 16 and 17 in adult
15 criminal court automatically and another nearly
16 1,000 kids, 13 to 15.

17 A second key feature is that the
18 consequences of an adult conviction, as you know,
19 are lifelong, very serious, and in some cases,
20 deadly. I've had the opportunity to go to Riker's
21 Island a couple of years ago with one of our young
22 people and we were just--it greatly impacted our
23 views on this and so it's something that we're
24 very well aware of.

25 Another key fact that you should

1
2 know is that the majority of young people in the
3 country who are tried in adult criminal court are
4 not there for the most serious violent crimes.
5 And in fact, 80 % of youth who are sentenced to a
6 prison term are released by their 21st birthday
7 and 95 % are released by their 25th birthday. So
8 that's a fact that should be taken into account as
9 you're thinking about this issue.

10 A couple of other things, we looked
11 at data that states about a dozen states collected
12 that show a few troubling facts about kids in
13 adult court which you should add into the mix
14 here. One is that there are lots of youth getting
15 processed through adult criminal court who are
16 charged with one thing, which gets them into adult
17 criminal court, and then they're convicted of
18 something for which they never would have been in
19 adult court in the first place.

20 Second is that in some states that
21 have what's called a reverse waiver provision,
22 where kids go to adult criminal court, then they
23 can be sentenced back, we're finding out that
24 large numbers of those kids are getting sent back
25 to the juvenile justice system. So Maryland, for

1
2 example, did a study on this recently showing that
3 and that really underscores the--you know, calls
4 into question why those kids are being processed
5 in adult court in the first place. And I think
6 there are a number of studies around the country
7 that are showing this as well.

8 In several other states recently,
9 in Virginia and Texas, they show that there are a
10 lot of first-time offenders in adult criminal
11 court, and that undermines the use of the juvenile
12 justice system, which is supposed to be dealing
13 with kids when they get into trouble for the
14 first, second, and maybe third time.

15 And then another fact that a lot of
16 folks, I think, here in New York is true is that a
17 lot of kids who are sentenced in adult court are
18 placed on adult probation, and that to me really
19 calls into question why are you sending these kids
20 to adult court in the first place. And in some of
21 the studies that we've seen we're talking about
22 the same kids, you know, the kids that are
23 processed in adult court, the kids that are
24 processed in the juvenile justice system, they
25 have the same features, same demographics, and why

1

2 are some kids being treated one way and some
3 another.

4 And I think finally the last point
5 I want to just make about kids in adult criminal
6 court is that it disproportionately affects young
7 people of color. We did a study on African-
8 American youth in the justice system and we did
9 one on Latino youth in the justice system recently
10 showing the devastating consequences of trying
11 kids in adult criminal court, and it's not because
12 young people of color commit more crime than white
13 youth, it's because the justice system treats them
14 differently. And for this reason alone, it calls
15 into question the idea putting kids in adult
16 criminal court.

17 So given all of that, I think a
18 couple of recommendations for the committee. One
19 is that, states all over the country have started
20 to re-examine these kinds of statutes because of
21 this kind of research. And we did a study
22 recently called State Trends, looking at examples
23 of states around the country that were reducing
24 the prosecution of kids in adult criminal court,
25 and we go into detail about the kinds of changes

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

and I'm happy to share that with the committee.

Also, we released a poll a few weeks ago showing that the public overwhelmingly supports these kinds of changes, the kind of changes you're talking about here today. And you know, we did a poll nationally, New Yorkers were included in that poll, and so it's good news for those of you who are in elected office to know that your constituents support these kind of changes.

So I would make four recommendations to this committee. One is that the state should be commended for your work on juvenile justice reforms, they're being noted around the country. And that now is the time to really examine kids in adult criminal court, given all the changes you've been undertaking on your juvenile justice system.

Second is, with the data that I mention and the recidivism research, it really calls into question the prosecution of kids in adult court in any fashion, at any age. So I do believe that Judge Lippman's proposal would go a long way towards removing the vast majority of

1
2 kids in New York state from adult criminal court
3 prosecution, but I think you should take a step
4 further and look at the 13 to 15-year-olds, I
5 think you should look at any offense at any age
6 here in the state. That would be a, I think, a
7 missed opportunity, we don't want to leave a few
8 more kids on the table while some kids are
9 removed.

10 And again, as I mentioned with the
11 public opinion polling, I think that's great news,
12 and it demonstrates that the public, they don't
13 want kids in adult criminal court automatically,
14 they want a juvenile court judge, they want a
15 hearing, they want individualized justice for
16 kids, they want kids closer to home, they want
17 them in rehabilitation programs, and they believe
18 that states should reduce racial and ethnic
19 disparities, and this is a huge area in that
20 regard.

21 So I want to applaud the Committee
22 for having me here today, and I'm happy to be a
23 resource to this Committee as you deliberate this
24 process. Thank you.

25 STEPHANIE GENDELL: Good morning,

1
2 I'm Stephanie Gendell, the Associate Executive
3 Director for Policy and Public Affairs at
4 Citizens' Committee for Children. CCC is a 68-
5 year old independent, multi-issue child advocacy
6 organization.

7 I just first wanted to really thank
8 this Committee and the Speaker for their
9 commitment to this issue, and thank all of the
10 Council Members who have and shortly will sign on
11 to the resolution and hopefully pass it soon in
12 support of Judge Lippman's call.

13 CCC has long supported the
14 principle that children should be treated like
15 children in the justice system, and, thus, all
16 children should have the opportunity to have their
17 cases heard in family court, rather than in the
18 adult criminal justice system. The purpose of the
19 juvenile justice system is different, it's to
20 protect the public safety and to meet the
21 rehabilitative needs of the young people, unlike
22 the criminal justice system, punishment is not a
23 principle of juvenile justice.

24 As you know, New York is one of
25 only two states that treat 16 and 17-year-olds as

1
2 adults, yet anyone who has ever interacted with a
3 16 or 17-year-old knows they are nothing like
4 adults. And this is not just perception, it has
5 been proven by brain science. Numerous brain
6 studies have now proven that the adolescent brain
7 is not fully developed. Specifically, the frontal
8 lobe, which is the part of the brain that supports
9 reasoning, advanced thought, and impulse control
10 develops last, leaving the adolescent brain to
11 rely heavily on its emotional center. This is why
12 youth often have less self-control, are drawn to
13 higher levels of risk and stimulation, have
14 undeveloped decision-making abilities, and are bad
15 predictors of consequences.

16 The laws of New York already
17 recognize that adolescents are not able to make
18 the same sound judgments and decisions as adults.
19 As has been mentioned earlier, you have to be 21
20 to drink alcohol, 18 to marry without parental
21 permission, 18 to vote, and 18 to join the
22 military. The United State Supreme Court has also
23 been deliberate in recognizing that children are
24 different from adults in decisions that have been
25 mentioned already today, and I won't reiterate

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

them.

So it is now time for New York to recognize what the science, 48 other states, and the United States Supreme Court have all recognized--children are different from adults and should be treated different by the juvenile justice system. CCC applauds Judge Lippman for so publicly recognizing this and for pushing the Legislature and the Governor to make this change now. Judge Lippman is correct that children ages 16 and 17 should be having their cases heard in the family court by family court judges pursuant to the Family Court Act.

While CCC wholeheartedly supports Judge Lippman's proposal to raise the age of criminal responsibility for nonviolent offenses to 18, we also fully support making this proposal broader so that all youth, including those 13 to 17 charged with more serious crimes, can also have their cases heard in the family court. This would require also changing the Juvenile Offender laws.

Finally, as has been discussed earlier, we recognize that there are a significant number of logistics, resource needs, and costs

1
2 that would need to be resolved. For starters, the
3 family court already needs more family court
4 judges, so we already support more family court
5 judges and this opens the door to having a real
6 conversation. We have not had more family court
7 judges since 1991 by statute, and so that needs to
8 be changed anyway.

9 We'd also need more resources for
10 alternatives to detention and placement, and we
11 already support all those things and we're already
12 looking to make them happen. We already know that
13 they're most cost-effective, and so while there
14 might be an additional input of resources over
15 time, we would actually be saving the State and
16 the City and the other counties a lot of money.

17 The children of New York have been
18 waiting for 50 years to be treated like children.
19 We must embrace the opportunity of Judge Lippman's
20 proposal that has been raised to the table and
21 work together to ensure our raising the age of
22 criminality becomes a reality now and not later.
23 We look forward to working with the City Council,
24 the advocates, stakeholders, Judge Lippman, State
25 legislators, and the Governor to accomplish these

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

legislative change in this upcoming session.

Thank you for the opportunity to testify.

 AVERY IRONS: Good morning, my name is Avery Irons, I am the Director of Youth Justice Programs at the Children's Defense Fund New York, thank you--

 CHAIRPERSON GONZALEZ: How are you?

 AVERY IRONS: --Chair Gonzalez, I'm good, thank you. Thank you for calling this hearing on raising the age, it's incredibly timely and an amazing opportunity to be having this discussion right now on all levels of state and local government.

 The Children's Defense Fund appreciates Judge Lippman stepping into this and taking such a public stance on what is, no doubt, going to be a very highly charged and complicated debate.

 We agree with his urgency and his goals and, you know, the opportunity to bring so many thousands of young people back into the juvenile justice system. However, we want at the Children's Defense Fund to really push the conversation as far as we can take it and to urge

1
2 this body and state elected officials to include
3 in the raise the age process 13, 14, and 15-year-
4 old charged as juvenile offenders and 16 and 17-
5 year-olds charged with violent crimes.

6 We, of course, firmly believe in
7 accountability, but we don't know how we can get
8 to accountability and justice if we're not looking
9 individually at the circumstances of a young
10 person's crime and kind of the life situations
11 that they're presenting. Over the years, it's as
12 this body and the City and the State have really
13 embraced alternative programs and really trying to
14 figure out what are the underlying causes of a
15 young person's actions, it's become clear that we
16 need this individual attention and individualized
17 decision-making to really impact this process.

18 I also think that we should be very
19 nuanced in our discussion about what is a violent
20 charge and who are the young people that are [off
21 mic] these jails. So many people's minds just
22 jumps to murder and Willie Bosket, but that is
23 actually just very few, that's a handful of
24 children every year. In New York City last year,
25 there were 598 young people charged as juvenile

1
2 offenders, 77 % of those were charged for robbery.
3 I don't want to be robbed, I don't want anyone to
4 be robbed, but I think we really need to look at a
5 process that figures out ways to address young
6 people who do rob others and who do take other
7 people's property. It's not I don't think any kid
8 wakes up and says, I want to be a stickup kid, you
9 know. Stuff is happening in communities, the
10 economic crisis are pushing a lot of people to do
11 things that if we could address those underlying
12 issues, we'd have a much better chance of the
13 long-term protecting public safety.

14 I don't want to go through my whole
15 testimony, I really want to summarize. I think
16 folks have made really good statements about the
17 collateral consequences, I really want to just
18 highlight a few of those things. Liz very aptly
19 spoke about Rikers Island, I've been to Rikers far
20 too many times, just to me, one of the worst
21 places on earth. We had 16 and 17-year-olds go in
22 there.

23 If you look at the legislation or
24 the statistics coming out of the legislation that
25 this body required, the fight infractions are

1
2 insane. Every quarter, the fight infractions go
3 up, there may be a small dip and then they go back
4 up. So we're talking 323 fight infractions listed
5 in this quarter alone, 7 youth with serious
6 injuries, 42 incidences in which Department of
7 Correction staff actually used chemical agents.
8 So we send young people to facilities like this
9 and then get surprised when they have to adapt to
10 highly charged violent situations and environments
11 and then come back out into the community and
12 can't figure out how to be the person that we
13 think that three months in Rikers Island should
14 have made them be.

15 Locking young people up in adult
16 facilities, you know, increases risk of suicide,
17 increases risk of sexual victimization. There are
18 also long-term consequences to treating young
19 people as adults. We all know about the
20 employment consequences, education consequences.
21 Even in New York State, for our state university
22 application, you have to check the box and then
23 you have to submit an essay explaining how you are
24 not a threat to public safety. So just think of a
25 young person trying to put his or her life back

1
2 together and even on a state school application
3 you have to put this. Every college does it
4 differently, every college has a different
5 process. And I think I would be highly
6 intimidated if I were a young person having to go
7 through that process and trying to get my
8 education, trying to do right.

9 There are housing consequences.
10 NYCHA can ban an adult with multiple misdemeanors
11 and violations for up to five years and also, you
12 know, felony drug offenses. So essentially we
13 could be forcing parents to choose, do I take my
14 young person home and care for them and subject
15 myself to unstable living; or, you know, do I just
16 say, young person, you can't live here, find your
17 own way, and potentially push young people into
18 shelters.

19 These consequences fall most
20 heavily on communities and youth of color. We
21 know, you know, looking at the city system, 95 %
22 of the kids in the system are youth of color, the
23 majority of it being Black and Latino. There's no
24 good statistics on adolescence charge in the adult
25 system, the racial breakdown, but if you look at

1
2 the disparities in every other part in the system,
3 I think it's a reasonable supposition that there
4 are disparities in that process as well. And my
5 testimony goes into more specifics on that.

6 So what we're essentially doing is
7 we're like spending all this money on the juvenile
8 and criminal justice systems and then creating a
9 circumstance and situations in which young people
10 coming out can't get jobs, and we don't expect
11 this to have any type of impact on the community,
12 which to me seems ludicrous. So we're forcing
13 communities in dismal fiscal climates to reabsorb
14 hundreds of people every year who are going to
15 have difficulty finding employment, difficulty
16 getting back into school, where jobs are scarce
17 and programs are being cut every year, as the City
18 Council is well aware.

19 I think raising the age creates an
20 amazing opportunity for us to, not only bring in
21 16 and 17-year-olds with nonviolent charges and
22 misdemeanors, but to also bring in the 13, 14 and
23 15-year-olds. And really I think the key for
24 Children's Defense Fund is a process that really
25 allows time to think about and hammer out all of

1
2 these tricky questions and to really put in place
3 priorities for how do we effectively deal with
4 young people who are committing robbery. I think
5 that's the opportunity that we have in this
6 process, and I'm worried that if we say, we're not
7 going to do it now, that it will be another 50
8 years, or they will never get back to it. And
9 we've created, you know, for every year you're
10 having 500, 600 kids in New York City alone going
11 through the system as adults, or, you know, the 16
12 and 17-year-olds with violent charges, I think the
13 consequences are going to be long-term and
14 devastating for communities in New York City.

15 I just want to close by saying, we
16 are at the brink of really momentous change and I
17 think in this conversation, because it's so highly
18 and politically charged, that we have to be brave
19 in how we have this conversation. I think one of
20 the things that I was thinking about when I was
21 writing this testimony was about, what the kids
22 have to do to go through this and how brave they
23 have to be to make it through every step of the
24 process and then to come out of the system and to
25 try to put their lives back together, that is a

1
2 bravery unparalleled because I'm not sure I could
3 do it, or if I could have done it when I was 13,
4 14, 15, 16, 17. I think we have to be as brave as
5 we ask our children to be as we try to solve the
6 problems that we've created for them.

7 So I'm happy to, you know, continue
8 to talk with the Council and be a resource, and I
9 look forward to continuing that conversation.

10 CHAIRPERSON GONZALEZ: Thank you.
11 Before we move on to the next person I just want
12 to let everyone know that Elizabeth Crowley,
13 Council Member Crowley has joined us, and she's
14 also a co-sponsor of this legislation, 1067.
15 Thank you.

16 GABRIELLE PRISCO: Thank you. I
17 think I have the distinction of being the first
18 person to say good afternoon, so good afternoon.
19 Thank you, Chairperson Gonzalez and Council
20 Members and staff, my name is Gabrielle Prisco,
21 I'm the Director of the Juvenile Justice Project
22 of the Correctional Association of New York, I'm
23 also an attorney who has represented children in
24 New York City's family court in three boroughs of
25 New York City.

1
2 The Correctional Association is an
3 independent, non-profit organization that was
4 founded in 1844 and is granted the authority by
5 the New York State Legislature to inspect prisons
6 and report its findings and recommendations to the
7 legislature, the public, and the press. As has
8 been stated--and going at the end is both
9 wonderful because I can just say ditto to my
10 colleagues, but draw attention to some highlights.

11 So as has been stated, New York is
12 one of only two states, the other being North
13 Carolina, that automatically prosecutes every
14 single 16 and 17-year-old as an adult. As you've
15 also heard, New York State treats 13, 14 and 15-
16 year-olds charged with more serious crimes as
17 juvenile offenders. And as you heard from Judge
18 Corriero, in addition to the risk of a lifelong
19 criminal record to these 13, 14, and 15-year-olds,
20 judges hearing the cases of juvenile offenders
21 have less opportunities for services, such as
22 mental health services, for this population.

23 And in his testimony and in his
24 speech, Judge Lippman, presented a series of
25 compelling arguments about the differences between

1
2 the brain development of children and adults, and
3 the key differences between the family court and
4 adult criminal justice system. The Correctional
5 Association of New York applauds Judge Lippman's
6 courageous position and we strongly believe that
7 the scientific research and analysis cited by
8 Judge Lippman as grounds for his proposal extend
9 to all children, regardless of charge severity.
10 So like my colleagues, we would urge this body and
11 the state legislature to consider adopting Judge
12 Lippman's proposal and also extending it to 13,
13 14, and 15-year-olds currently eligible for
14 charges as juvenile offenders, as well as 16 and
15 17-year-olds charged with more violent crimes.

16 And it's really relevant to know,
17 and the work of the Campaign for Youth Justice in
18 their State Trends report, which you heard
19 testimony from Ms. Ryan about, articulates that a
20 lot of the states you've heard testimony about
21 today as models have actually gone beyond just
22 nonviolent crime. Mississippi, for example,
23 recently amended its a law so that 17-year-olds
24 accused of violent crimes, many of them are
25 originally, their cases are heard in the juvenile

1
2 court. So it's important when we look at the
3 state by state analysis that we realize that many
4 states have not--are not making a nonviolent,
5 violent crime distinction and that a lot of the
6 research also does not make that distinction. And
7 that's where I'd like to turn my attention now.

8 So we know, and you've heard a lot
9 of testimony about how adolescents have not yet
10 developed the ability to understand consequences
11 and are less in control of impulse and aggression.
12 I'm not going to reiterate that body of research,
13 it is in my written testimony and you've heard
14 testimony from others. You've also heard, and I
15 think we all know, the ample anecdotal research
16 that teenagers are different. The scientific
17 research on adolescent brain development does not
18 distinguish between nonviolent and violent acts.
19 It does not say, for example, that teenagers lack
20 the impulse control when committing nonviolent
21 acts, but they suddenly develop a frontal cortex
22 sort of ability to control their impulses when
23 engaged in violent acts. So I think it's really
24 important when the committee considers and when
25 the Council considers that body of research that

1
2 it keeps in mind that the researchers and the
3 evidence does not distinguish between behavior.
4 And in fact, the only categorical distinction made
5 is between children and adults.

6 We as a society recognize this type
7 of categorical and bright line distinction between
8 children and adults in many social situations.
9 You've heard testimony and certainly we all know
10 that children under the age of 18 can't vote,
11 serve in the military, drop out of school, consent
12 to their own medical care in most situations; they
13 also can't enter into a cell phone contract with
14 AT&T or any one of a number of corporate
15 providers; they can't attend an R-rated movie
16 without parental consent. And we also say as a
17 society that 18, 19, and 20-year-olds lack
18 sufficient emotional and cognitive development to
19 drink alcohol or gamble, but I want to go a step
20 further and say we as a society don't then look at
21 those children and say, wait a minute, did the
22 kind of behavior they've engaged in suddenly means
23 that they're eligible to watch an R-rated movie or
24 to enter into a cell phone contract.

25 We routinely and categorically

1
2 recognize that children are different. It is only
3 in the area of justice that we make a behavioral-
4 based distinction and say that children lack
5 sufficient emotional and cognitive maturity if
6 they do something we consider relatively minor,
7 but we can imbue that maturity to them and treat
8 them as an adult if they do something that's more
9 serious.

10 And like my colleagues, and like
11 you've heard, this proposal, the proposal that
12 would look at extending the age of criminal
13 responsibility for all young people regardless of
14 charge severity, does not mean that young people
15 will not be subject to consequences, it does not
16 mean that victims will not have their voices
17 heard, and it does not mean that recidivism or
18 violent crime will increase--in fact, it is quite
19 the opposite. And as you've heard, there is an
20 extensive body of research that demonstrates that
21 children prosecuted in adult courts--and here the
22 body research again extends to children who are
23 convicted or accused of violent crimes, of
24 felonies, of violent felonies--that when those
25 children are prosecuted in adult courts they

1
2 recidivate at higher rates, they re-offend sooner,
3 and they not only recidivate, they go on to commit
4 a greater number of more serious and violent
5 crimes, including felony property crimes and
6 additional violent crimes to other people.

7 It is the Correctional
8 Association's position that this body of research
9 supports Judge Lippman's proposal as a first step,
10 but it also supports a series of additional steps
11 including the reform of New York State's current
12 juvenile offender laws and raising the age of
13 criminal responsibility for all 16 and 17-year-
14 olds regardless of charge severity. And again,
15 when we look at the recidivism rates and at the
16 studies, it's important to notice that those
17 studies, again, many of them say that these kinds
18 of dangers to public safety--we are less safe when
19 children are prosecuted as adults and that extends
20 to children who are convicted of bad things. And
21 again, it doesn't mean that those children
22 shouldn't face consequences, it means we should
23 think about how we're treating them and how we may
24 treat them in a way that is more safe for all of
25 public safety.

1
2 And I see the microphone, are we
3 running short of time, Chairperson Gonzalez, or--

4 [Off mic]

5 GABRIELLE PRISCO: Okay. So I
6 wanted to just highlight a few other points about
7 young people who are in adult jails and prisons,
8 much of which is also represented and Liz Ryan
9 talked about some of the research that she'll make
10 available to the Council, but I want to highlight
11 a few quick statistics and then make a series of
12 policy recommendations. So according to a
13 national expert, Professor Michele Deitch,
14 children housed in adult prisons are 50 % more
15 likely to face an armed attack from other inmates;
16 twice as likely as adult inmates to face physical
17 assault; and according to the Federal Prison Rape
18 Elimination Act, youth housed in adult prisons are
19 five times more likely to be sexually abused or
20 raped than their counterparts in youth centers,
21 again, that extends to young people who are
22 convicted of violent, as well as nonviolent
23 crimes.

24 And I want to wrap up. You've
25 heard discussion of racial and ethnic disparities,

1
2 many people movingly testified about that. I
3 think it's really important for this body to also
4 understand that when states do allow for a
5 transfer or waiver provision, so when cases are
6 first heard in juvenile court, but a judge has a
7 discretion to then transfer that case to adult
8 court, research has shown that children of color
9 are more likely to be processed in adult court or
10 to be transferred or waived to adult court. So,
11 for example, African-American youth represent 17 %
12 of the overall youth population, 30 % of those
13 arrested, and 62 % of those prosecuted in the
14 adult criminal court system. They are also nine
15 times more likely than white youth to receive an
16 adult prison sentence. And these disadvantages
17 may attach to discretionary decisions to prosecute
18 children as adults.

19 And so this research makes a number
20 of points very clear. The first is that the issue
21 of racial and ethnic disparities must be part of
22 all of our youth justice reform efforts, it's
23 something the Council, I know, is very committed
24 to and I've spoken here before in other hearings
25 on this issue. But the second is that when we're

1
2 looking specifically at the issue of raising the
3 age, we must look at if there is discretion for
4 judges to transfer or waive a child from juvenile
5 court to family court, that specific mechanisms
6 must be included to ensure that the discretion is
7 equally available and applied to all children.

8 So in conclusion, the Correctional
9 Association would make five policy
10 recommendations. The first is that New York State
11 raise the age of criminal responsibility to 18
12 years of age for all youth, regardless of charge
13 severity. The second is that all applicable laws
14 be reformed to ensure that no child under 18,
15 regardless of what they have done, be held in an
16 adult jail or prison. The third is that any
17 system handling the case of a child should operate
18 as a child serving system. As you've heard others
19 speak about, there's an overarching need for a
20 cultural reform of both our family court and our
21 criminal court system, as well as whatever model
22 this may look like if the age is raised, the
23 fundamental principle should be that children
24 should be treated as children and that we must
25 create and fund a robust continuum of prevention,

1
2 supervision, and treatment services designed for
3 children.

4 The fourth is a clear diversion
5 mechanisms from the justice--excuse me--from the
6 justice system should be developed, regularly
7 analyzed, and, if necessary, modified. These are
8 the off-ramps you've heard others speak about, and
9 it's very important that, if the age of criminal
10 responsibility is raised, that these off-ramps are
11 clearly designed, that data is collected about
12 them, and that there is a regular review and
13 analysis of that data, and that's one place the
14 Council can be of particular use in mandating that
15 kind of data.

16 And the fifth and final point is
17 that the collection and public release of court
18 related data should be legally mandated, that data
19 should be broken down by race, ethnicity, sex,
20 geography, offense, and when available, the LGBTQ
21 status of children. And if the age of criminal
22 responsibility is raised and there is a transfer
23 or waiver provision, we must consistently analyze
24 which children are being waived or transferred to
25 adult court. And again, this is a place where the

1
2 Council has tremendous authority to mandate the
3 public release of that data and its regular
4 review.

5 Thank you for your time and
6 attention.

7 CHAIRPERSON GONZALEZ: Thank you.
8 I'm going to begin with Liz Ryan, who came very
9 far. Thank you for being here--she's from
10 Washington, DC, I believe, from Campaign for Youth
11 and Justice. I have a question in respect to, are
12 there any studies that you know of to measure the
13 long-term impact raising the age of criminal
14 responsibility have on employment, youth
15 employment, prospects, or even earnings, is there
16 anything like that?

17 LIZ RYAN: I haven't seen a study
18 quite framed that way, but there has been a study
19 by Mark Cohen, a professor out of the University
20 of Tennessee I believe, looking at the high costs
21 of having a young person go through the justice
22 system, and what that cost is to society. So I
23 mean, I'm happy to get you that study, if that's
24 helpful.

25 CHAIRPERSON GONZALEZ: Yeah, and

1

2 then I was also wondering, in respect to once the
3 age is raised and the family courts versus the
4 criminal court, do you have any studies that show
5 the impact on family court in respect to dockets
6 and things like that?

7

LIZ RYAN: So a couple of things.

8 One is that some of these changes that I briefly
9 mentioned that are captured in the State Trends
10 report are more recent. So Connecticut changed
11 their statute, it went into effect a little under
12 two years ago for the 16-year-olds and the 17-
13 year-olds are coming back in, in 2012; and
14 Illinois, their statute to remove 17-year-old
15 misdemeanants has been in place for a little less
16 than two years; and Mississippi's law change went
17 into effect last July. So we don't have lots of
18 documentation on this, but I can tell you from
19 discussions with policy makers, you know, your
20 counterparts in those states, a couple of things.
21 One is that the cost estimates were much lower,
22 came out much lower than people originally
23 anticipated. Second is, a lot of those kids just
24 were diverted from the system altogether. So
25 juvenile courts, particularly in Connecticut,

1
2 where they actually did a study of this, they
3 weren't overwhelmed by hundreds more kids; and
4 Illinois also did a study--again, I'd be happy to
5 give you this--showing that there wasn't a
6 negative impact on juvenile courts. Now, what
7 these states did is they phased these changes in,
8 so when they changed the statute, they gave
9 themselves, you know, six months, a year, or two
10 years to have an implementation timeframe, and
11 then to work out the bugs in the system and to
12 transition kids back into juvenile court by that
13 date that they'd set. So they tried to do it in a
14 responsible manner and I think the results have
15 been really terrific. We've been tracking them as
16 people have been doing that.

17 CHAIRPERSON GONZALEZ: Thank you,
18 and I just want to encourage you to continue to
19 support us and work with us. I thank you for
20 coming such a long way. And we definitely will
21 get there with folks like you. Thank you.

22 LIZ RYAN: Thank you, I wouldn't
23 have missed it, I appreciate the opportunity.

24 CHAIRPERSON GONZALEZ: Thank you so
25 much. And then Stephanie Gendell, from Citizens

1
2 Committee, thank you so much for your expertise
3 and the work that you do, because again, together
4 we can get where we're going. Thank you.

5 [Crosstalk]

6 CHAIRPERSON GONZALEZ: And then I
7 just want to say to Avery Irons, the advocacy and
8 the incredible work that you do is so significant
9 to us, we need your support, we welcome it, and
10 strength is important in respect to the future of
11 our children. Thank you so much.

12 And lastly is--what's our last
13 speaker? Here she is. Gabrielle, sorry,
14 Gabrielle.

15 GABRIELLE PRISCO: That's okay.

16 CHAIRPERSON GONZALEZ: You're very
17 eloquent, by the way, all of you, all of you are
18 very eloquent. And I know it's lengthy, but it's
19 very, very interesting. I certainly appreciate
20 all your expertise and all the facts that are
21 given to us in this hearing because it is
22 important moving forward that we have as much
23 information expertise as possible. And Council
24 Member Crowley would like to ask a question.

25 COUNCIL MEMBER CROWLEY: Thank you,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Chair Gonzalez. Good afternoon, thank you--

GABRIELLE PRISCO: Good afternoon.

COUNCIL MEMBER CROWLEY: --all for being here today and for your advocacy work on behalf of the youth in the criminal justice system. I'm a mother of a son that's going to be 15 on Thursday and it's hard to think in a year from now he would be considered an adult.

However, that's the way it is in New York State right now, when it comes to crimes. And what I would like to know is if you do believe here today that there will be a chance at somehow preventing youth who haven't been convicted of violent felonies to get a chance at going into a program that can prevent them from even going back into the juvenile justice system? Like an alternative to incarceration program where they could be trained to be better citizens and given an opportunity versus going upstate at one of the prisons where many are taught to be better criminals. Are there statistics that you're looking at right now that are tracking the youth? And this question is open to anybody who wants to answer it. But in your estimate, if we were to

1
2 raise the age to 17 or 18, how many more youth
3 will be prevented from going into the system and
4 visiting a life of crime and continuing to go back
5 into the system, if we were to catch them at a
6 young age and try to give them better
7 opportunities at life?

8 GABRIELLE PRISCO: That is such a
9 great question, I'm take a second to answer it,
10 and just say and I often think about when I'm
11 doing this work, like, who's the child I love most
12 in the world and if that child was in the system
13 what would I want the system to do for them. And
14 so I think, you know, talking about your son and
15 your own experience of him really helps us all
16 sort of humanize the issue and think about these
17 are someone's children.

18 And there have been some really
19 interesting studies, one compared the recidivism
20 rates of youth in New York, where 16 and 17-year-
21 olds are prosecuted as adults, and New Jersey
22 where 16 and 17-year-olds are prosecuted in family
23 court, and obviously, New Jersey is also close
24 geographic neighbor, so it's a good comparison
25 point. The study compared youth who had committed

1
2 the same serious crimes with similar backgrounds
3 and circumstances and found that youth prosecuted
4 in the adult courts in New York were 85 % more
5 likely to be re-arrested for violent crimes--85 %
6 more likely--and 44 % more likely to be arrested
7 for felony property crimes. And I can certainly--
8 actually the study is cited in my testimony, it
9 was also cited in the Children's Cabinet Advisory
10 Board, which issued a--

11 COUNCIL MEMBER CROWLEY:

12 [Interposing] Well what do they do in New Jersey
13 that prevents them from going into the system?

14 [Off mic]

15 COUNCIL MEMBER CROWLEY: I mean,
16 outside of being tried--

17 GABRIELLE PRISCO: Yeah.

18 COUNCIL MEMBER CROWLEY: My mic not
19 on? Oh, I apologize. It's one thing to be tried
20 as an adult and I know that the penalties are
21 stiffer, but what is it that New Jersey does, what
22 type of intervention work do they do so
23 successfully that our rates of success are not
24 near what theirs are?

25 GABRIELLE PRISCO: I think my

1

2 colleagues can--

3

STEPHANIE GENDELL: [Interposing]

4

So I don't have the answer for New Jersey per se,

5

but just looking at what we've done in New York

6

City, New York City through the Administration for

7

Children's Services and the Department of

8

Probation, they have the series of alternative to

9

detention and some alternative to incarceration

10

programs that have already proven for the younger

11

children to have much lower recidivism rates, and

12

so we already have programs in the city that work

13

at keeping the younger children from recidivating

14

by getting these programs in their community and

15

not being incarcerated. And so there's really no

16

reason to think that these same types of programs,

17

some may be adjusted a little bit for age,

18

wouldn't have the same sort of impact on the 16

19

and 17-year-olds.

20

GABRIELLE PRISCO: We do have

21

research that--advocates at this table have

22

research on the sort of comparative success rates

23

of the kinds of alternative to detention and

24

placement programs that Ms. Gendell spoke about.

25

We can share that with your office.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRPERSON GONZALEZ: And I just want to say also that I think it's really important not to expose that young person to the adult criminal system. That's for me so important because, in family court, he will receive alternatives to incarceration, he will receive some type of productive direction, and so that's the difference. The exposure, I think, begins there in the criminal system, so that's what we're trying to work towards.

STEPHANIE GENDELL: And just to add one last thing is that many of the cases of the 16 and 17-year-olds would never actually have to go into court because, if they were pursuant to the juvenile laws, they could get adjusted out of the system altogether and never have to even be in court.

CHAIRPERSON GONZALEZ: Okay. Well I think this ends our hearing, and I just want to say to each and every one of you, thank you for your commitment. And, again, it's Intro 1067, we now have 24 Council Members on board. We look forward to passing this legislation so we could support Chief Judge Lippman and, of course, Judge

1
2 Corriero, that continued to stay here with us, has
3 partnered with us.

4 To all of you as advocates, we
5 thank you, and we look forward, and we're going to
6 celebrate it really soon. Thank you.

7 COUNCIL MEMBER CROWLEY: Good job.

8 CHAIRPERSON GONZALEZ: Oh, before
9 we leave I just want to say, this is really
10 significant, I'm sorry, Peggy Chan, our counsel,
11 and William Hongach have done incredible work with
12 this legislation. They have made it possible that
13 we're here today, that this is so history altering
14 because we always think it's one person, but you
15 know what, it's so many people. I thank you from
16 the bottom of my heart, you've done a terrific
17 job. Thank you.

C E R T I F I C A T E

I, Tammy Wittman, 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 *Tammy Wittman*

Date November 22, 2011