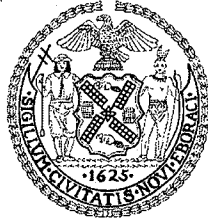


NYCTM

**Administration for
Children's Services**



**The New York City Council,
Committee on Juvenile Justice
Committee on Courts and Legal Services
February 13, 2017**

“Int. 1237, Int. 1451, Int. 1452, Int. 1453, & Res.1025”

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

Good morning Chair Cabrera and members of the Juvenile Justice Committee. I am Felipe Franco, Deputy Commissioner for the Division of Youth and Family Justice at the New York City Administration for Children's Services. Thank you for the opportunity to offer testimony about the Council bills on the agenda today. I am proud to share with you the work DYFJ has already undertaken in these areas, as well as some of the efforts that are currently underway.

Int. 1237

Introduction 1237 would mandate ACS to require any healthcare provider to maintain health records for young people in juvenile detention in an electronic format and to retain the records for a period of ten years. As the Council may know, ACS contracts with the Floating Hospital to provide medical and dental care for youth in detention, with Bellevue Hospital to provide psychiatric and psychological services, and with START Treatment and Recovery Center to provide mental health services. Though ACS contracts with these excellent organizations to provide these services, the actual health records remain the property of ACS, thus it is ACS's responsibility to maintain the records and not our contracted healthcare providers. We respectfully request that the language of the bill be revised to reflect that the duty to maintain the records remains that of ACS.

Intro 1237 speaks to an initiative that ACS has made great strides towards implementing, and I am pleased to provide you an update on our progress. In March 2015, pursuant to New York State regulations, ACS integrated e-prescribing software for use in secure and non-secure detention and in pre-placement operations in the agency's child welfare continuum. The software enables electronic prescriptions for both controlled and non-controlled substances, and enhances DYFJ's ability to ensure continuity of care with respect to medication for youth as they

transfer from ACS detention facilities to Close to Home placement, to child welfare foster care placements, or to an alternative to placement program in the community. This technological improvement has not only bolstered ACS's coordination of the medical and mental health treatment for youth in ACS care, but it has also served as a platform for the agency's procurement of a new Electronic Health Record (EHR) system in the near future.

In October 2016 ACS issued a Request for Information (RFI) to help develop a scope of requirements for a new EHR system and to inform a future Request for Proposals (RFP). The RFI has closed, and the responses received are being used to update the business requirements, identify a cost estimate, and inform the development of the RFP, which we expect to issue in Spring 2017. The legwork to establish an EHR system is currently underway, however we are concerned that an immediate effective date for this legislation does not permit a sufficient timeframe for ACS to complete the procurement process needed to put such a system in place.

Family Engagement

Family engagement is critical for ensuring families' continued involvement throughout a young person's time in detention. We make sure that young people in detention – and the staff who work with them – remain accessible to families for the duration of the young person's stay. Intros 1451, 1452 and 1453, speak to the work we do to promote family engagement through visitation and correspondence.

Int. 1451

Intro 1451 endeavors to broaden the definition of "family" who may be permitted to visit youth in detention facilities, except when it is determined that such visits are detrimental to the youth or the visitor refuses to comply with visitation rules. We applaud the Council for recognizing the importance of youth maintaining meaningful contact with the significant people

in their lives, while preserving DYFJ's duty to ensure safety. As you know, ACS's detention operations are overseen by the New York State Office of Children's and Family Services (OCFS). The State Executive Law requires OCFS to issue regulations which govern detention operations throughout the state and includes rules for visitation in detention facilities. ACS is required to abide by those regulations, and under the state Social Services Law any rules ACS issues in this regard must be approved by OCFS.

The State regulations establish minimum standards for visitation, which DYFJ exceeds in practice. For years, DYFJ has utilized an expanded definition of "family" that includes parents, grandparents, siblings, children of youth, aunts, uncles, guardians, caretakers, permanency resources and other positive influences, and we encourage family to visit frequently. We strive to ensure that youth have contact with only positive adults and peers, so our staff works with parents and guardians at intake to identify a list of appropriate visitors for the youth, each of whom must be approved by the parent or guardian. Our secure facilities offer visiting hours four days a week-- including weekdays, evenings and weekends-- and our NSD group homes schedule visits by appointment, and are required to offer the opportunity at least twice a week. Youth in detention are also able to interact with family during special events at the facilities, such as our monthly "Family Day" events, which feature food and structured activities for families, as well as other special events where family members are able to participate in activities such as cultural and arts presentations, barbeques, games, and performances.

Int. 1452

Intro 1452 would require DYFJ to establish a video conferencing program which would enable youth in detention to communicate with any of the youth's approved visitors, in addition to in-person visits. Before I address this bill further, I am pleased to share with you that DYFJ

has made substantial progress towards implementing video conferencing in our secure detention facilities to enhance family participation in youth's mental health treatment. DYFJ has secured equipment for video conferencing and wiring within the mental health suites is scheduled to begin shortly. This capability will enable our mental health team to actively engage youth and their families in more frequent, in-depth, collaborative discussions about youth's mental health needs and treatment plans.

With respect to Intro 1452, we understand the Council's desire to establish a video conferencing program for family visits in detention as a creative way to expand visitation opportunities. Video conferencing, as with any other contact, requires us to ensure the contact does not place the youth or others in harm or danger. So, as with in-person visits and telephone calls, video conferences will be carefully coordinated and supervised by our staff.

We also request clarity on whether the Council intends for video conferencing to be established in every detention facility in the City, including NSD residences. In addition to the two secure detention facilities which DYFJ runs directly, we also contract with non-profit organizations to provide NSD services at 11 sites in Brooklyn, Queens, Manhattan and the Bronx. Our NSD residences are located within the community in home-like settings that are accessible to families. Because of the wide accessibility of our NSD residences and the short length of stay of youth in non-secure detention, the utility of video conferencing in these settings would be minimal. The logistics and exact cost of establishing video conferencing capabilities for visitation across the entire detention continuum is unclear at this time, but is certain to be of significant consideration for the City. We welcome the opportunity to partner with the Council and the advocate community to discuss ways in which we can we can make further

improvements to visitation for youth in detention that meets families' needs while preserving safety in our facilities and in the community.

Int. 1453

Intro 1453 would mandate detention facility directors to permit private visits and phone calls at a youth's request. DYFJ grants privacy for the privileged conversations between young people and their attorneys (including attorneys' social work staff). We also do not use recording or listening devices while youth are speaking to their family and or support network, but it is imperative that staff remain present and available at all times during family visits and phone calls.

As many of you have seen during your visits to our secure detention facilities, family visits occur in an open visitation room with separate tables and chairs for each family group. In our smaller, non-secure detention residences, family visits typically occur in common spaces, such as living rooms and recreational areas. In both secure detention and NSD, staff is present in the visiting area but they do not hover, so families are able to talk privately within the space. In cases where families wish to discuss private matters, we can arrange for a special visit to occur in a smaller room with staff positioned nearby.

Youth in secure detention are also able to call their families at a minimum of once per week. Additional phone calls can be earned based on the youth's level in the ASPIRE behavior modification program. In NSD, youth are able to make or receive calls twice per week and additional calls can be earned based on their level in the NSD residence's behavior management system. At intake, the youth's assigned case manager receives a list of people that the youth is authorized to call. At the time of the call the case manager dials the telephone number, waits for the person to pick up, verifies the identity of the person on the line, and then hands the phone to

the youth. Staff has no ability to control what occurs on the other end of the line once the phone is handed to the youth, so the case manager remains nearby for the duration of the phone call to make sure the conversation remains appropriate, to deescalate conflicts as they arise, and to take action should an unauthorized person join the call. These calls also serve as welcome opportunities for parents and families to engage in a group discussion with the case managers and the youth about the youth's progress in detention and to address any issues that the youth and family wish to discuss.

Youth are permitted to contact their attorneys via telephone as requested, and attorney calls do not subtract from the time allotted to youth for family phone calls. As with family phone calls, the case manager initiates the call to the youth's attorney and verifies the identity of the person on the other line, but the case manager does not remain in the room when a young person is speaking to their attorney.

As you know, DYFJ's mission is to improve outcomes for young people who come into our care, and the rehabilitative services and programming we provide in detention are aimed at meeting that objective. But in doing so we must recognize the importance of protecting the victim on the outside, as well as protecting our residents from victimization themselves, while also maintaining a safe work environment for our staff. Private visitation and phone calls remove staff's ability to ensure that conversations remain appropriate, that contraband is not being introduced, that victims are not being contacted directly or through third parties, and to diffuse and deescalate physical and verbal conflicts, among other concerns.

Conclusion

Thank you for the opportunity to comment on these bills and to discuss the important work we are already doing to modernize our health records system and to enhance family

engagement through visitation and improved correspondence. We appreciate the Council's ongoing support as we continue to promote safety and strive toward strengthening connections between youth and families. I am happy to take your questions.

FOR THE RECORD

TESTIMONY

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

Int. No. 1237 - In relation to requiring the administration for children's services to maintain electronic health records for youth in the juvenile justice system.

Int. No. 1451 - In relation to broadening the definition of family who can visit youth in detention facilities.

Int. No. 1452 - In relation to requiring the Administration for Children's Services to provide video conferencing for youth in detention facilities.

Int. No. 1453 - In relation to requiring the Administration for Children's Services to permit youth in detention facilities to request privacy during visits and phone calls.

Res. No. 1025 - Calling upon the New York State Legislature to pass and the Governor to sign a law amending article 45 of the Civil Practice Law and Rules to prohibit juvenile admissions and statements against penal interest made during court-ordered mental health screening and treatment from being admitted into evidence in subsequent criminal proceedings.

The Legal Aid Society
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The Legal Aid Society welcomes the opportunity to testify before the Committee on Juvenile Justice regarding the proposed legislation and resolution and wishes to thank Chairman Cabrera for holding this hearing.

The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of the City. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States.

The Legal Aid Society's Juvenile Rights Practice provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented some 34,000 children, including approximately 4,000 who were charged in Family Court with juvenile delinquency. During the last year, The Legal Aid Society's Criminal Practice handled nearly 230,000 trial, appellate, and post-conviction cases for clients accused of criminal conduct. The Criminal Practice has a dedicated team of lawyers, social workers and investigators devoted to the unique needs of adolescents charged in adult court--the Adolescent

Intervention and Diversion Project. In addition to representing many thousands of children, youth, and adults each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients.

We submit this testimony today to support passage of the following Introductory Bills and Resolution relating to juvenile justice that are the subject of today's hearing:

Int. No. 1237 relating to the retention of electronic health records in juvenile detention facilities;

Int. No. 1451 relating to a broader definition of family who can visit youth in detention facilities;

Int. No. 1452 requiring the ACS to provide video conferencing for youth in detention facilities;

Int. No. 1453 - requiring the ACS to permit youth in detention facilities to request privacy during visits and phone calls; and

Res. No. 1025 - Calling upon the New York State Legislature to pass and the Governor to sign a law amending Article 45 of the Civil Practice Law and Rules to prohibit juvenile admissions and statements against penal interest made during court-ordered mental health screening and treatment from being admitted into evidence in subsequent criminal proceedings.

We support the passage of these bills and resolution and suggest the following language to make them even more effective. As a general matter, all proposed amendments to the administrative code with respect to detention facilities should also apply to youth in ACS Division of Youth and Family Justice (DYFJ) placement facilities.

Introductory Bill Number 1237 calls for an amendment to Section 1. Chapter 9 of title 21 of the administrative code of the city of New York to add a new section 21-909 to read as follows:

§ 21-909 Electronic health records in juvenile detention facilities. With respect to health records created for individuals in juvenile detention facilities, ACS shall require any healthcare provider to maintain such records in an electronic format, in a manner to be specified by the commissioner by rule. Such electronic record shall be retained for a minimum period of ten years.

Because the use of electronic health records is associated with better clinical outcomes, including improved quality of care,¹ we support this proposed legislation. Certainly, the use of electronic health records for youth in ACS DYFJ facilities could facilitate the flow of information and could improve continuity of care. These benefits would apply both within the agency's detention and placement facilities, as well as with parents/guardians and providers outside the agency, upon discharge and reentry. As a result, this bill should be expanded to include juvenile placement facilities.

The most significant concern about the use of electronic health care records is the need to ensure the privacy of patient data.² As a result, this bill should be strengthened by including the following concepts. (1) There must be clear limits on who can access the electronic health records. These limits should be consistent with ACS policy with regard to paper records and in accordance with state and federal laws. (2) The ACS electronic health records system should contain an audit feature that will permit its system operators to identify each individual who accessed a given

¹ Menachemi and Collum, Benefits and Drawbacks of Electronic Health Records Systems, Risk Management and Healthcare Policy 2011:4 47-55.

² Id. New York Civil Liberties Union (March 2012).

medical record. (3) ACS should ensure that youth are able to protect their health care records from disclosure, even to their parents/guardians, where applicable.³ Electronic health care records policies and practices must allow for a patient to consent to limited disclosure, in contrast to wholesale disclosure, consistent with applicable laws.⁴ Patients should have the ability to “control access to medical information by data type, provider, time range or purpose.”⁵ The ability to discern what medical information can be shared with third parties is particularly important when it comes to adolescent health care. As the New York Civil Liberties Union aptly points out in its report, Protecting Patient Privacy: Strategies for Regulating Electronic Health Records Exchange, in New York State “minors can consent to specific types of health care, including reproductive health and certain mental health treatment, without parental involvement, . . . while parents have a right to access their children’s medical records generally, parents and future providers may not obtain information about such minor-consented services, and doctors may not share such information, without the minor’s permission.”⁶ ACS electronic health care record policies should ensure that young people are given the opportunity to determine what records they wish to consent to disclose.⁷

Introductory Bill Number 1451 calls for Section 1. Chapter 9 of title 21 of the administrative code of the City of New York to be amended to add new section 21-909 to read as follows:

³ Id. at 16-18.

⁴ Id.

⁵ Id. at 19.

⁶ Id. at 18.

⁷ Id.

§ 21-909 Detention facility visitors. ACS shall permit youth in detention facilities to receive visitors including but not limited to a coach, teacher, clergyperson, or other adult, except when the facility director determines that such visits are detrimental to the youth or that the visitors refuse to comply with rules governing visitation.

We would like to acknowledge that in recent years ACS DYFJ in its policies and practices has expanded its definition of family and sought to facilitate greater family and community connections for youth in detention and placement. We are pleased to see this is a priority of both ACS and the City Council Juvenile Justice Committee. Evidence shows “that a relationship with a parent or other adult figure can have a positive impact on an adolescent, serving as a protective buffer against external negative influences, and family visitation for youth is associated with better behavior and improved academic performance.”⁸ As has been frequently reported to this Committee, LGBTQ young people in particular frequently encounter rejection by their families of origin; and many LGBTQ youth form alternate kinship structures with peers that are not dependent upon biology.

As a result, the bill could be strengthened with the addition of the following language: (1) mentors should be included in the list of adults who should be permitted to visit youth in facilities. While the proposed language obviously does not exclude them, it is useful to include them explicitly since they may not yet have an existing relationship with the youth, but there is the

⁸ Vera Institute of Justice, Family Engagement in the Juvenile Justice System, Juvenile Justice Fact Sheet 5 (citing a National Academy of Sciences (NAS) report) and Sandra Villalobos Agudelo, “The Impact of Family Visitation on Incarcerated Youth’s Behavior and School Performance,” Vera Institute of Justice (April 2013), <http://www.vera.org/sites/default/files/resources/downloads/impact-of-family-visitation-on-incarcerated-youth-brief.pdf>.

potential for real benefit. The Office of Juvenile Justice and Delinquency Prevention studies have shown that mentors “can help support the positive development of youth.”⁹ Mentors have “been shown to improve self-esteem, academic achievement, and peer relationships and reduce drug use, aggression, depressive symptoms, and delinquent acts.”¹⁰ (2) The decision regarding whether a particular visit should be granted should be made by the facility director or designee. The facility director should have the ability and flexibility to assign decision making regarding visitation to a staff member he or she deems suitable for the task and so designates. (3) ACS should be required to implement a policy that provides the youth or his or her representative an opportunity to be heard regarding the refusal to grant the visit(s). ACS policy should require that a youth be provided a written explanation any time a proposed visitor is refused entry, and an opportunity to appeal this refusal by submitting a written request with any supporting documentation to the facility director or designee. A 3 day timeframe for response by the facility director or designee and the ability to challenge a further denial by appeal to the Associate Commissioner of Detention Services at ACS DYFJ and receive a decision within 7 days should be included as well.

Introductory Bill Number 1452 calls for Section 1. Chapter 9 of title 21 of the administrative code of the City of New York to be amended to add new section 21-909 to read as follows:

§ 21-909 Video Conferencing in Detention Facilities. The department shall establish a video conferencing program which permits youth in detention facilities to communicate through video

⁹ <https://www.ojjdp.gov/programs/ProgSummary.asp?pi=54>.

¹⁰ Id.

conference or substantially similar technology with any person with whom such youth would be permitted to personally visit. Such conferences shall be permitted in addition to any such personal visits.

We support efforts to increase opportunities for families and community members to engage youth. “[M]ost families want to play a bigger role: in a survey of family members, 86 percent said they wanted to be more involved in their children’s treatment while they were incarcerated.”¹¹ Increased involvement can “help to increase families’ knowledge and skills in supporting their loved one’s treatment and reentry plans in the facility and upon returning home.”¹² For example, the Ohio Department of Youth Services, with the assistance of the Vera Institute of Justice, “developed family engagement policies and practices . . . that now include families in monthly treatment meetings and offer expanded visiting hours to more kinds of relatives.”¹³ Additionally, the Ohio equivalent of after care workers “bring laptops into homes (of parents and guardians) to offer video visitation.”¹⁴

The bill should be strengthened by adding the following language: (1) The bill should state explicitly that video conferences will not be recorded. (2) The availability of video conferencing should not be permitted to justify restricting or limiting in person visits. Only when face-to-face visits are not practical or workable, should alternative arrangements including video conference visitation be offered. (3) The bill should also make video conferencing available to parents or

¹¹ Vera Institute of Justice, Family Engagement in the Juvenile Justice System, Juvenile Justice Fact Sheet 5 (citing Justice for Families, 2012).

¹² Id.

¹³ Id.

¹⁴ Id.

guardians so that they can more regularly participate in “treatment meetings and counseling sessions.”¹⁵

Introductory Bill Number 1453 calls for Section 1. Chapter 9 of title 21 of the administrative code of the City of New York to be amended to add new section 21-909 to read as follows:

§ 21-909 Private visits and phone calls. Youth in detention may request privacy during visits and phone calls, and the facility director shall provide such privacy to the extent practicable.

As previously stated, we support efforts that allow youth increased family and community support while in facilities. Youth in facilities have a critical need for and right to maintain contact through visits, calls and letters with family and friends outside the facility. ACS policy and practice should allow youth to maintain such relationships with a reasonable degree of privacy. Furthermore, unless consistent engagement of staff is deemed necessary for security purposes, youth should be granted sound privacy, at a minimum. Youth should be able to discuss matters such as his or her safety within the facility and or legal issues relating to his or her charges privately with a parent or other trusted adult.

The bill should be strengthened with the following additions: (1) The bill should explicitly state that the law recognizes that all communication and correspondence between attorneys and youth is confidential. (2) Additionally, the bill should create a presumption that all visits and phone calls between youth and their visitors shall be private. Youth should not have to request privacy, but should be afforded it in the first instance, unless a determination is made by the facility

¹⁵ Id.

director/designee that supervision is required during a particular visit or call. The director/designee should be required to indicate in writing (to be placed in the youth's file) his or her reasons for not affording the youth privacy during any particular visit or correspondence. (3) ACS should be required to implement a policy that provides the youth/ his or her representative an opportunity to be heard regarding the director/designee refusal to allow for privacy during any visit(s). ACS policy should provide the youth with a written decision when a youth is denied privacy during a visit(s), stating the reasons for his or her refusal in writing. The youth shall then be allowed to appeal this decision by submitting a written request for privacy with any supporting documentation to the facility director/designee. The facility director/designee should be required to respond within 3 calendar days and the youth should be allowed to challenge the denial further by submitting a written request to the Associate Commissioner of Detention Services at ACS DYFJ, with a specified 7 day timeframe for a response.

Resolution 1025 calls upon the New York State Legislature to pass and the Governor to sign a law amending Article 45 of the Civil Practice Law and Rules to prohibit juvenile admissions and statements against penal interest made during court-ordered mental health screening and treatment from being admitted into evidence in subsequent criminal proceedings. We support this resolution.

Recognizing that almost half of the adolescents in juvenile detention settings receive mental health care, and the prevalence of mental health needs is significantly higher among youth in detention than in the community, it is critical that obstacles to treatment be eliminated. Many youth in detention have not yet reached resolution on the legal matter that led to their incarceration

when they begin engagement with mental health services. In fact, young people are evaluated for mental health issues upon arrival to a detention facility and treatment can start soon thereafter. As a society, caring for children with mental illness needs to be a priority and needs to be free of constraints. Youth who are justifiably concerned that any type of disclosure is going to negatively affect the outcome of their juvenile delinquency or criminal case will be less likely to engage in screening and treatment. Some of these young people spend significant periods of time in detention and this can be a significant opportunity for meaningful treatment. Adolescents should be afforded the same relationship with treating mental health professionals in detention settings as they would have when engaged in treatment in the community.

Conclusion

The Introductory Bills proposed by the Juvenile Justice Committee are important measures to expand family and community engagement with youth in the juvenile justice system and promote greater access to treatment and improved quality of care. As previously stated, young people involved in the juvenile system benefit from greater access to family and community supports. We urge the Council to pass the Introductory Bills with our suggested changes, and we support the Resolution. Thank you for the opportunity to provide testimony about these very important measures.

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**BROOKLYN
DEFENDER
SERVICES**

TESTIMONY OF:

Rebecca Kinsella – Youth Social Worker

BROOKLYN DEFENDER SERVICES

**Presented before
The New York City Council Committee on Juvenile Justice
Hearing on Intros 1237, 1451, 1452, 1453 & Res. 1025
on
February 13, 2017**

My name is Rebecca Kinsella and I am a youth social worker for Brooklyn Defender Services. BDS provides innovative, multi-disciplinary, and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for tens of thousands clients in Brooklyn every year. I thank the City Council Committee on Juvenile Justice and Chair Fernando Cabrera for the opportunity to testify today about the many ways that the City Council can foster engagement between detained youth and their families.

Brooklyn Defender Services' has a specialized adolescent unit, called the Brooklyn Adolescent Representation Team, or BART. Our team represents over two thousand adolescents ages 13-21 annually. In the past five years, BART has represented over 150 youth ages 13-15 charged with JO offenses, many of whom are detained in ACS facilities pre-trial. My caseload includes adolescents detained at Crossroads and Horizons, ACS detention facilities in Brooklyn and the Bronx, as well as young people detained on Rikers Island.

Family engagement during detention is critical to minimize harm to youth and the family upon reentry to the home. We represent many young people in adult court who return home from juvenile detention without sufficient support and are quickly re-

arrested because of fights in the home. According to Covenant House, 50% of adolescents aging out of foster care and the juvenile and criminal justice systems will be homeless within six months. When youth are kicked out of the home or ordered out of the home by a judge they have very few options because many are unprepared to live independently, have limited education and no social support. This leads to couch surfing, repeated shelter visits, trading labor or sex for a place to stay, and all too often, another round of criminal justice involvement.

Parental and family engagement by the juvenile justice system is proven to be effective for better youth outcomes. A National Academy of Sciences (NAS) report cited evidence that a relationship with a parent or other adult figure can have a positive impact on an adolescent, serving as a protective buffer against external negative influences. Other research has shown that family visitation for youth is associated with better behavior and improved academic performance. And it is clear that most families want to play a bigger role: in a survey of family members, 86 percent said they wanted to be more involved in their children's treatment while they were incarcerated (Justice for Families, 2012).¹

The bills before this Committee today are an important first step towards promoting family engagement in the City's juvenile detention facilities, hopefully one that can be replicated for older teens on Rikers Island.

Intro No. 1237

BDS supports Council's efforts to require ACS to maintain electronic health records for youth in the justice system. Maintaining electronic records will allow the young person's records to more easily follow them into the community and facilitate the re-entry transition. We have seen how the transition to electronic health records on Rikers have allowed for a better continuity of care for our clients when they seek health services in New York City hospitals. This is particularly critical for our clients with developmental disabilities or mental health issues, a group that is over-represented in both the adult and juvenile justice systems.

¹ Vera Institute of Justice, "Family Engagement in the Juvenile Justice System," available at <http://archive.vera.org/sites/default/files/resources/downloads/family-engagement-juvenile-justice.pdf>.

Further, in the event this information is relevant to a legal case, this bill will make requesting and obtaining ACS medical records easier and quicker. Medical records can sometimes play a vital role in criminal cases and obtaining these records has proven to be somewhat slow and challenging in the past.

Intro No. 1451

Brooklyn Defender Services supports the Council's effort to expand the category of people who are able to visit detained youth. Families in the twenty-first century often include parents, caregivers and siblings who may not be blood relatives. Yet ACS' visitation policies do not always take these realities into account. This bill would allow clergy, coaches, teachers and other adults in a young person's life to visit, a much-needed change that would help to maintain a young person's community ties during incarceration.

As I noted before this Committee in September, siblings are not allowed to visit Crossroads without a birth certificate and the parent that accompanies the sibling must be a biological parent. These rules make visiting difficult for many loved ones. A parent who does not have a birth certificate for a young child will be turned away from the visit when they fail to bring the birth certificate or are forced to find childcare. Siblings who miss their brother or sister are unable to visit unless the parent that accompanies them is a biological one. These rules have the adverse effect of limiting family engagement and harming young people who need the support of their loved ones while they are incarcerated.

BDS supports Intro. 1451 and respectfully encourages the Council to go further than the proposed language, amending the bill to ensure that siblings may visit without an accompanying biological parent or a birth certificate.

Intro No. 1452

BDS supports the Council's effort to provide video conferencing in detention facilities, which permit youth to have communication with their families and support networks in addition to in person visits. The family or person of support for the youth may also be caretakers for other children and/or have employment commitments that make regular in person visits difficult. The ability to maintain contact through video

conferencing with the incarcerated youth allows the youth to continue to feel supported by their family and community and ultimately reduce recidivism².

BDS supports Intro. 1452 and encourages the Council to amend the language to allow youth to have video conferencing for youth and their families and people in their support network in order to maintain family and community bonds. We respectfully ask that the Committee consider amending the bill language to make clear that any video conferencing should be free to both parties on the call. In some jurisdictions, friends and family members must pay \$20 for 20 minutes video conferences.³ We strongly believe that no bill should increase costs to our clients' families, particularly when the detainees are children themselves. Also, the bill language should be clear to ensure that the video conferencing should be available in the alternative, but not to the exclusion of, in-person visitation. No one should be denied an in-person visit because of the capability for video conferencing.

Intro. No. 1453

BDS supports this legislation to provide youth privacy during phone calls, upon request, as it will help strengthen family bonds and provide the youth an opportunity to create a support system with those in their community. Visiting rooms at both Crossroads and Horizons are large and parents meet their children without any privacy. Caseworkers allow youth to call their parents or guardians for 10, 20 or 30-minute intervals, depending on their behavior. However, calls are not private. This lack of privacy negatively affects family relationships because, often times, neither parent nor child feels like they may speak candidly. This also discourages open conversations about the case and plea offers, leaving adolescents forced to choose between discussing the private details of their case in a public space or in front of their caseworkers, or making life changing decisions on their own without family support.

² PACER Center, "Improving Family Involvement for Juvenile Offenders with Emotional/Behavioral Disorders and Related Disabilities" (2010) available at <http://www.pacer.org/jj/pdf/bedi-36-01-52.pdf>.

³ Eric Markowitz, "Video Chats are Replacing In-Person Jail Visits, While One Tech Company Profits, International Business Times, April 8, 2015, available at <http://www.ibtimes.com/video-chats-are-replacing-person-jail-visits-while-one-tech-company-profits-1873918>.

BDS supports Intro. 1453, and encourages the Council to amend the language to go further in providing youth and their families the privacy to have visits and phone calls without fear of being overheard by others.

Res No. 1025

BDS clearly supports Council's effort to call upon the state legislature to allow youth the right to protect themselves from incriminating statements of admission made during mental health screening and subsequent treatment in any criminal proceedings. As set out in *In re Gault*, 387 US 1 (1967), juveniles have a constitutional right to due process including the right to be protected against self-incrimination statements without procedural safeguards in place. Yet the reality is that there are still many contact points in the criminal justice system where people's rights are violated. Mental health screenings and treatment provided are for the rehabilitation and treatment of the youth not part of the fact-finding investigation and therefore should be explicitly protected.

We believe that this legislation will not only foster family engagement but may have the additional effect of preventing future criminal justice involvement and youth homelessness, ultimately keeping our communities and our young people safe. We are grateful to the Council for seeking to eliminate some of the barriers that separate detained youth and their families.

Please do not hesitate to reach out to me with any questions about these or other issues at (718) 254-0700 (ext. 362) or rkinsella@bds.org.



New York City Council Committee
on Juvenile Justice

Hearing to Discuss:

Int. No. 1237

Int. No. 1451

Int. No. 1452

Int. No. 1453

and

Res. No. 1025

Monday, February 13, 2017
10:00 AM

Testimony Presented By
Rev. Wendy Calderón-Payne
BronxConnect, Executive Director
(Urban Youth Alliance, Inc.)

Good morning Chairperson Cabrera, and all the members of the Juvenile Justice Committee.

I am Rev. Wendy Calderón-Payne, the Director of BronxConnect. BronxConnect is a faith-based, community-based program that offers alternatives to detention and incarceration that connect court-involved youth with positive resources in the local community. Through mentoring relationships, we prevent recidivism and address youth-initiated goals in education and employment.

BronxConnect was the first Bronx-based Alternative-to- Incarceration (ATI) and Alternative-to-Detention (ATD) program serving our community. We also serve the Bronx with Crisis Management and Cure Violence Services. BronxConnect began as a response from the community to the high incarceration rates of our African American and Hispanic youth.

Thank you for allowing me to testify today. I testify as the Executive Director of a community-based program, staffed by members of the community, ex-offenders and people of color. We have served over 2,000 children and young people over the last 17 years. We hold the lowest ATD re-arrest rate and Failure to Appear Rates among the city's ATD programs.

BronxConnect fully supports the recent activity of City Council to improve and support family bonds during a child's time of detention. As a successful community-based agency, family is a powerful tool to turn a child's life around. Unfortunately, many times parents are seen as part of the problem and not an active member of the team who's responsibility it is to help a child make positive decision that will help them succeed in life.

Researchers Grant Duwe and Valerie Clark studied the effects of the effects of prison visitation on recidivism among 16,420 offenders released from Minnesota prisons between 2003 and 2007. Using multiple measures of visitation (any visit, total number of visits, visits per month, timing of visits, and number of individual visitors) and recidivism (new offense conviction and technical violation revocation), they found that visitation significantly decreased the risk of recidivism,

The findings suggest that revising prison visitation policies to make them more “visitor friendly” could yield public safety benefits by helping offenders establish a continuum of social support from prison to the community. (Their study, *Blessed Be the Social Ties that Bind Us, The Effects of Prison Visitation on Offender Recidivism* was first published December 2011 in the Criminal Justice Reform Review.)

Unfortunately they also found that 39% of their sample was deemed “unvisited inmates.” Given the evidence that visitation has a positive effect on recidivism, it would be wise to contract with community-based non-profits to reach out to the families of those unvisited and support the reconciliation and visitation process. These non-profits can also begin to provide support to those with low to no social support.

Detention and incarceration upsets a family unit’s life and plans for the future. By expanding the definition of family, you increase the pool of those who can offer support and love to a child while detained. In addition, adding privacy can strengthen the family’s ability to maintain bonds that will encourage positive behavior when the child returns home.

Video Conferencing has had a great success with adult detained and incarcerated populations in New York City and should be implemented for those detained in juvenile facilities. In addition, it seems obvious that if rehabilitation and support for changed behavior is our motive with detained youth, that health records would be kept electronically so that they can move with the child as they leave the detention center.

Finally, Mental Health Counseling should not be restricted by those who want to build a criminal case on that which is discussed in counseling. Resolution 1025 is instrumental to allowing children to take full opportunity of the counseling offered while in detention.

Thank you for these very common sense changes and improvement to the juvenile justice system. While we fully believe community alternatives are the best, for those who are detained, a full spectrum of family-friendly supports should be provided.

Thank you for your time.

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