

Testimony of the Children's Defense Fund – New York

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Examining Violence in New York City Jails

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My name is Beth Powers and I am the Senior Juvenile Justice Policy Associate at The Children's Defense Fund New York. I thank the Committee on Fire and Criminal Justice for holding this hearing on the very important topic of violence at Rikers Island.

The Children's Defense Fund Leave No Child Behind® mission is to ensure every child a Healthy Start, a Head Start, a Fair Start, a Safe Start and a Moral Start in life and successful passage to adulthood with the help of caring families and communities. The CDF provides a strong, effective voice for all the children of America who cannot vote, lobby or speak for themselves. CDF educates the nation about the needs of children and encourages preventive investments before they get sick, into trouble, drop out of school or suffer family breakdown. As part of our advocacy efforts, CDF launched the Cradle to Prison Pipeline® Campaign, a national call to action to stop the funneling of thousands of children, especially poor children and children of color, down life paths that often lead to arrest, conviction, incarceration and even death. In order accomplish these goals, we must keep incarcerated youth safe and offer age appropriate services that will help them rehabilitate and prepare for reentry into their communities.

New York is one of only two states in the nation that automatically treats all youth ages 16 and over as adults in the criminal justice system. Hence, our city incarcerates far more 16- and 17-year-old children in adult jails than does any other city in the country. There are about 800 adolescents (ages 16 to 18) incarcerated on Rikers Island on any given day. This is enough children to fill more than 20 school buses.

Although New York State criminal law currently treats 16- and 17-year-olds as adults, we know that youth are developmentally different than adults. In the 2005 Supreme Court ruling *Roper v. Simmons*, the Court drew on new research on adolescent brain development to conclude that youth younger than 18 should not be subject to the death penalty. This decision was one of four Supreme Court decisions in recent years highlighting the differences between youth and adult brains. Research on brain development clearly shows that adolescent brains are not fully developed in areas most associated with impulse control and reasoning. Further, the development that adolescent brains are undergoing also makes them more able to change than their adult counterparts.¹ In 2010, the state of Connecticut passed a landmark law to raise the

¹ Campaign for Youth Justice: *Teen Brains Are Not Fully Developed*

age of juvenile court jurisdiction from 16 to 18. Illinois, which previously raised the age for youth convicted of misdemeanors, is now revisiting this change to try and incorporate all youth – even those convicted of offenses classified in the law as more serious. Even as we wait for New York State to acknowledge that our law must also be changed, it is time for our city to act as a leader for the rest of the state by recognizing that young people under 18 should not be treated as adults and most especially should not be subject to the same conditions of confinement as adult prisoners.

We understand that violence is a very serious concern in city jails. Our purpose in testifying is to express our concern with short sighted efforts, namely the use of isolation, to deal with problematic behavior through means that are harmful and often exasperate the very problems they are attempting to address. High quality age appropriate programming is necessary to address the complex needs of adolescents and accomplish genuine behavioral change. An investment in such programming is much more likely to go further than any existing effort to safeguard not only the adolescents and adults being held at Rikers, but also the corrections officers and other staff responsible for their supervision.

Adolescents housed in adult jails are at risk of harm

There is extensive research outlining the harmful impact to youth of housing them in adult jails. According to the Campaign for Youth Justice report *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*, youth have the highest suicide rates of all inmates in jails and have much higher rates of victimization — including rape and sexual assault - than do adult prisoners. Not only are adult jails harmful to youth confined within them, detaining adolescents as adults absolutely does not promote public safety. Research underscores the reality that adolescents sent to adult criminal justice systems - as opposed to juvenile detention - have higher rates of recidivism. This research includes studies by the Federal Centers for Disease Control and Prevention (CDC), and the U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention (OJJDP).²

Harm of isolation

In addition to the harmful effects of housing adolescents in adult jails in general, youth at Rikers Island are subject to punitive segregation, or solitary confinement. In their 2011 report, *Growing up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, the

² Campaign for Youth Justice: *Youth in the Adult Criminal Justice System*, October 2012

ACLU and Human Rights Watch examined the detrimental effect isolation has on adolescents. According to their report, 14 percent of all adolescents were housed in isolation at some point during their detainment at Rikers with an average length of stay of 43 days. The report makes clear the damage done to adolescents held in isolation, particularly those with pre-existing mental health concerns. According to Human Rights Watch, more than 48 percent of adolescents at Rikers have diagnosed mental health problems.

Further, from CDF-NY's conversations with those familiar with conditions at Rikers, it is clear that that these most at-risk youth - adolescents in solitary confinement - have exceptionally limited educational opportunities consisting of workbook pages to be completed on their own with minimal access to teachers via a phone brought to their cell, if any. When one considers the fact that the DOC reports that more than 50% of the students at Rikers read below a 6th grade reading level, it is impossible to imagine adolescents who are so far behind academically already making any educational strides while confined in isolation 23 hours a day and given work sheets to complete on their own without any in-person instruction – in many instances for periods of time that stretch beyond six full weeks.

In NYC and in other parts of the country, we can all think of instances in which elected officials have undertaken to live the realities of their most challenged constituents... such as subsisting on only a food stamps budget for several weeks. I challenge all of you to attempt to comprehend what it would be like to undertake such an experiment in the context of solitary confinement - to be confined in a small cell, alone, often without even any reading materials or any way to pass the time, for days, weeks, and months at a time. As impossible as this may seem to us as adults, consider that we allow 16-18 year old adolescents - many with mental health needs, with learning disabilities, or who have not even been found guilty of a crime - to be treated this way in our city.

The sad reality for teens at Rikers Island is that the culture of violence can lead some adolescents to see isolation as a warped respite from the unmanageable environment of general population. Yet, once they are in isolation – which is 23 hours of every day – many of them are overwhelmed by the trade-off they have made. While potentially more physically safe, the impact of solitary on a young person's mental health can be profoundly detrimental. In our conversations with community members, we have heard of young people in solitary contemplating suicide because they feel like they are going crazy spending so much time all alone. Children should not be forced to make a choice between ensuring their physical health or their mental health. Ultimately, isolation is an unacceptable means of control used by the Department of Corrections in lieu of comprehensive

services that have been shown most effective in addressing both the needs of adolescents and the call for public safety.

Appropriate and Sufficient Staffing is Critical

While New York State continues to classify adolescents as adults when it comes to criminal responsibility, the reality is that the 800 adolescents who are present at Rikers on any given day are not adults. Teens are different from adults and must be treated as such. We should not limit the needed conversation to increasing the number of Corrections Officers . The quality of staffing is of utmost importance. Given the dearth of appropriate training they receive on working with this complex and high needs population, it is not surprising that many Corrections Officers find themselves ill-equipped to handle the special needs of detained teens.

The DOC has indicated that there is a correlation between idle out of cell time and violence³ But, locking teens in their cells for more hours of the day is not an appropriate or effective response to fights between inmates - especially when much of the impetus arises from them not being engaged in productive or educational activities. There is an urgent need for comprehensive evidence-based and/or proven programming and services to actually address the academic, social, health and mental health needs of these teens and not simply contain them in dangerous and demoralizing environments that exacerbate their special needs.

The DOC describes the existing Institute for Inner Development as staffed by specially trained Corrections Officers. We are encouraged by the acknowledgement of the need for specialized training in order for Corrections Officers to better be able to competently address the needs of teens in custody. We are also encouraged by the existence of the ABLE Project for Incarcerated Youth. However, we urge the development of comprehensive programming that extends beyond the school day and week, beyond serving only the school-attending teen population at Rikers, and that integrates Corrections Officers in the philosophy of the program.

Recommendations:

In conclusion, we strongly suggest the following:

- All DOC staff working directly with teens detained in city jails should receive on-going training including but not limited to adolescent development and best practices for working with detained youth.

³ Rayman, Graham. Rikers Violence: Out of Control. *Village Voice*. May 9, 2012.

- The DOC should fund and implement robust developmentally appropriate interventions to reduce violence and decrease the need for punitive measures. In addition, the DOC should identify alternative punitive strategies that do not include the detrimental and excessively harmful effects of isolation.
- Isolation is not an appropriate place for adolescents. The DOC should ensure that youth detained in isolation are no longer denied appropriate educational access
- The DOC should expand programming for adolescents to include all teens, not just those in school programs, and include after school and weekends.
- The DOC should be required to make data public on a regular basis regarding the use of isolation for adolescent detainees.

As long as New York continues to carry the shameful title of being one of only two states to set 16 as the age of criminal responsibility, New York City must much more appropriately deal with the adolescents in the care of the criminal justice system. Research shows conclusively what common sense also tells us - adolescents fare better when they are treated with developmentally appropriate programs and protected from the violence of adult jails. Investing in positive alternatives to punitive segregation and in rehabilitation is certainly the best way forward when it comes to ensuring the safety of all parties. It is time for New York city to do so.