

Testimony of the Children's Defense Fund – New York

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Examination of Violence and the Provision of
Mental Health and Medical Services in New York City Jails

New York City Council

Committee on Fire and Criminal Justice

Committee on Health

Committee on Mental Health, Developmental Disability, Alcoholism, Substance
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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, Committee on Health, and Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services for holding a hearing on this very important topic.

The Children's Defense Fund (CDF) Leave No Child Behind® mission is to ensure every child a Healthy Start, a Head Start, a Fair Start, a Safe Start and a Moral Start in life and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective 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.

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. This practice is harmful to young people and bad for public safety, in that young people tried in adult criminal justice system have significantly higher rates of recidivism than youth tried in juvenile systems. There are about 700 adolescents (ages 16 to 18) incarcerated on Rikers Island on any given day. Although New York State criminal law currently treats 16- and 17-year-olds as adults, we know that youth are developmentally different than adults.

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.

Just as punitively prosecuting adolescents as adults does not accomplish the desired effect of decreasing future criminal behavior, the use of solitary confinement does not result in a more controlled jail environment. From 2007 to 2013 the number of punitive segregation beds at

Rikers has increased 61%. Despite this dramatic increase, the jail has not seen a decrease in violence. In the same time period as Rikers instituted a sharp increase in punitive segregation beds, the jail experienced a tripling of use of force incidents despite having a decrease in census. 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.

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. Youth have the highest suicide rates of all inmates in jails. Young people have the highest rates of sexual victimization of all prisoners. Studies show that youth in adult prisons are twice as likely to report being beaten by staff, and 50% more likely to be attacked with a weapon than young people placed in youth facilities.

Harm of isolation

Young people in solitary are denied basic elements necessary for positive development: an adequate education, adequate and age appropriate services, appropriate mental health care, contact with family, appropriate nutrition, and adequate physical activity.

The harms of isolation for people of all ages are well documented. The United Nations Committee on Torture and the European Court of Human Rights have both deemed solitary confinement to be forms of torture and a violation of human rights. As a result of a lawsuit brought by the New York Civil Liberties Union (NYCLU), the New York State Department of Corrections and Community Supervision (DOCCS) recently agreed to remove adolescents, pregnant women, and inmates with developmental disabilities from extreme isolation in New York state prisons. In their 2011 report, *Growing up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, the American Civil Liberties Union (ACLU) and Human Rights Watch (HRW) examined the detrimental effect isolation has on adolescents and ultimately recommended prohibiting the use of solitary confinement for youth. Adolescents subjected to solitary confinement risk even further damage than the already horrendous effects to adults given their active development. Solitary confinement can hinder the ability of a young person to rehabilitate, can force the emergence of or

exacerbate existing mental health concerns, and can be physically harmful due to the denial of necessary physical exercise. According to the ACLU/HRW 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. In their Report to the New York City Board of Corrections, Drs. James Gilligan M.D. of New York University and Bandy Lee M.D., M.Div. of Yale University report that at the time of their investigation in July of 2013 there were 6 inmates on a punitive segregation until for mentally ill inmates that had been in isolation over 1,000 days and one inmate with a stay of over 3,000 days – roughly 3 and 8 years.

Mental Health

According to the ACLU and HRW, more than 48 percent of adolescents at Rikers have diagnosed mental health problems. Adolescents with mental health concerns are disproportionately impacted by the practice of punitive segregation. Drs. Gilligan and Lee cite in their report to the Board of Correction that in July 2013, 73% of adolescents in punitive segregation were diagnosed as either seriously or moderately mentally ill. This is nearly double the percentage of inmates jail-wide diagnosed as such.

Growing up Locked Down makes clear the damage done to adolescents held in isolation, particularly those with pre-existing mental health concerns. In addition to causing significant harm to those with mental health concerns, the torturous practice of punitive segregation can cause new psychiatric symptoms to occur in previously unaffected individuals. Just as the number of punitive segregation beds dramatically increased from 2007-2012, instances of self mutilation and suicide attempts increased nearly 75%.

Drs. Gilligan and Lee, cite multiple examples of the excessively unsafe and harmful conditions they observed young people exposed to at Rikers Island. The inadequacy of staff to appropriately respond to mental health concerns is portrayed below in an excerpt from Drs. Gilligan and Lee, detailing an incident they observed last summer:

“One incident we observed while visiting the adolescent Restrictive Housing Unit (RHU) was a youth banging on the door of his cell, which grew increasingly louder over twenty minutes or so. One could hear that he was initially using his arms and legs but later his whole body, while personnel walked by him, ignoring him. When he failed to gain attention, we observed him tearing his sheet into strips, wrapping it around his arms and legs, and then his neck (as if preparing to hang himself). When we told the staff what he was doing, they did not call the mental health staff (even though this was supposedly occurring in a mental health-oriented RHU) but security. The security staff’s first response was to arrive as a group and to tell us to

step back, as they were going to spray him, and they proceeded to pull out a can of Mace. We insisted that this was not necessary and requested that they call mental health staff, at which time the inmate was asked if he wished to see the psychologist, to which he nodded “yes.”

Lack of Educational Opportunities

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.

Appropriate and Sufficient Staffing

While New York State continues to classify adolescents as adults when it comes to criminal responsibility, the reality is that the 700 adolescents who are present at Rikers on any given day are not adults. Neuroscience supports that development continues until around age 25. 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. Appropriate training to work with this complex and high needs population is vital to ensure Corrections Officers are equipped to handle the special needs of detained teens.

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 support the ABLE Project for Incarcerated Youth, however we urge the development of comprehensive programming that extends beyond the school day and week and beyond serving only the school-attending teen population at Rikers.

Recommendations:

In conclusion, we strongly suggest the following:

- No adolescents or young adults under age 25 should be housed in isolation.
- The DOC should be required to make data public on a regular basis regarding the use of isolation. This data should include frequency of occurrence, duration of stay, and infraction. This should be disaggregated by age to make transparent the impact on adolescent inmates.
- 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.
- 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.
- As long as youth remain detained in isolated confinement, The DOC should ensure that youth 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.
- Once discharged from NYC jails, no one should continue to carry a debt of time owed in solitary confinement to be paid should they return to a NYC jail in the future.

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. 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.

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