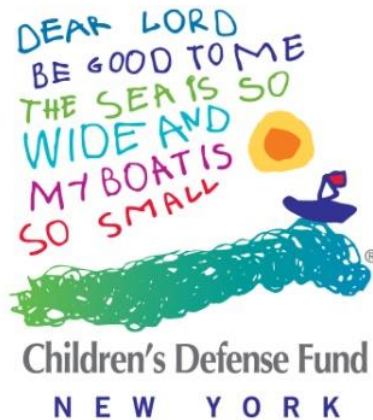


Testimony of the Children's Defense Fund – New York
Before the New York City Council Committee on Juvenile Justice

Oversight Hearing – Update on NYC's Implementation of
Raising the Age of Criminal Responsibility

September 20, 2018



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The Children's Defense Fund's (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 and independent voice for all the children of America who cannot vote, lobby or speak for themselves. We pay particular attention to the needs of poor children, children of color and those with disabilities. CDF – New York's unique approach to improving conditions for children combines research, public education, policy development, community organizing and advocacy activities, making us an innovative leader for New York's children, particularly in the areas of health, education, early childhood, child welfare and juvenile justice.

Thank you Chair King and members of the City Council Committee on Juvenile Justice for this opportunity to testify on the topic of New York City's implementation of Raise the Age (RTA). CDF-NY co-leads the Raise the Age – New York Campaign, a public education campaign which helped to bring awareness to the need to raise the age in New York State, resulting in the successful passage of legislation in April of 2017. We continue to advocate to ensure the law is implemented through appropriate planning and allocation of funding to support jurisdictions around the State.

While a number of outstanding concerns remain as the City approaches October 1, it is important to recognize the City's work to date.

Financial Support and Planning for Implementation

The City has committed to RTA and has aligned significant resources for both planning and assembling the financing for implementation in the absence of state support, including making a commitment to funding Close to Home. These investments have the potential to make the City a leader in RTA implementation state-wide, demonstrating how a coordinated approach that engages government agencies, community based providers and advocates can realize the purpose of the new law.

A Smaller System

The City has successfully reduced youth incarceration of both of 16 and 17 year olds in our adult criminal justice system, and youth under 16 in our juvenile system. The average daily adolescent population in our City jails was more than 400 in 2015.¹ Today, there are closer to 200 in Department of Correction custody.² At the Administration for Children's Services, the total monthly admissions of juveniles to detention is currently at the lowest in the last 4 years—fewer than half of what they were in 2015.³ The number of youth in secure detention was only 34, and

¹ https://www1.nyc.gov/assets/doc/downloads/pdf/ANNUAL_REPORT_FY16_n.pdf, at 1.

² <https://data.cityofnewyork.us/Public-Safety/Daily-Inmates-In-Custody/7479-ugqb>, data sorted by age, including data for youth 16-18.

³ <https://www1.nyc.gov/assets/acs/pdf/data-analysis/flashReports/2018/07.pdf>, at slide 20.

there were only 42 youth in non-secure detention, as of June 2018.⁴ Similarly, the City is placing fewer adjudicated youth in institutional settings. During June 2018, there were only 8 admissions to Close to Home residential providers—down from nearly 3 times as many in 2016.⁵ This sustained shift toward services, supports and community-based alternatives, has resulted in a juvenile justice system that continues to shrink. This is the right direction for our young people.

The Administration for Children’s Services Must be at the Center of the Reform

We continue to rely on the expertise and leadership of the Administration for Children’s Services and its partners to ensure that the continuum of community-based services and programming is ready, and that new and existing facilities are prepared for and will meet the needs of youth requiring detention or placement. We expect ACS to ensure that its practice guides all settings where youth may be detained or placed, preventing them from being governed by adult correctional practices and principles.

Ongoing Concerns

Despite the City’s significant progress since the Committee last convened to discuss RTA in April, we continue to be concerned about the role of correction officers in Specialized Secure Detention (SSD) -- facilities intended to function pursuant to a juvenile justice model that shifts away from adult correctional approaches. The ongoing litigation between the correction officer’s union and the City only underscores that ACS must move with all possible haste to hire and train Youth Development Specialists on a timeline that is more aggressive than the 2-year time-table currently in place.

As the City confronts how to successfully remove the youth from Rikers Island, we cannot forget that programming and services are at the heart of the RTA reform, and that adjustment, diversion and community-based supports ought to be the dominant focus of our time and resources. When detention is necessary, whether for Juvenile Delinquents, Adolescent Offenders, so-called Rikers Youth, or Gap Year 17s,⁶ practice should be guided by youth development principles, including effective engagement in programming that meets youths’ needs, trauma-informed services, positive behavior management and age-appropriate, graduated sanctions for youth who do not follow the rules. We urge the City to provide more information about its plans for programming

⁴ *Id.* at slide 22.

⁵ *Id.* at slide 24.

⁶ “Rikers Youth” are those, defined by section 500-p of New York Correction Law, as youth who must be removed from Rikers Island and placed in settings certified by the Office of Children and Family Services, in conjunction with the state Commission of Correction, and operated by NYC ACS and DOC as a “specialized juvenile detention facility.” “Gap Year 17s” are 17 year olds who will continue to be prosecuted as adults under the first year of Raise the Age implementation, but cannot be housed in an adult jail on Rikers Island.

in SSD facilities, as well as its policies for behavior management and discipline. These two components are essential to the success of these settings for youth.

Monitoring and Data Reporting

It is important to note that this is just the beginning. We will know much more about how Raise the Age is being implemented over the next few months. We urge the City Council to play an active role in the months ahead, promoting transparency by closely monitoring implementation of RTA, including codifying robust data reporting and hearing from system stakeholders, including youth and families impacted, to ensure that court processes, facilities and services are consistent with RTA reforms, and so that issues or problems that may emerge are identified and remedied as quickly as possible.

Any reporting bill should build on existing ACS reporting requirements to capture essential information about new facilities and policies required by RTA. This includes tracking the number of youth in non-secure and secure detention, SSD (for AOs), and Specialized Juvenile Detention (SJD) facilities (for Rikers Youth and Gap Year 17s). Data should also capture the length of time youth spend in detention in these settings. ACS should report information on incidents in the new SSD/SJF facilities, as it does with current detention settings, as well as information about the deployment of Rapid Response Teams in SSD/SJD. The City Council should also require other City-wide reporting on adjustment rates for these youth populations, rates of case transfer from the new Youth Part to Family Court, as well as access to and engagement in programming and services. We would welcome the opportunity to work with you on such a bill.

Conclusion

CDF-NY is grateful to the Committee's monitoring of RTA implementation. We will continue to work at the State level to support the City's efforts to ensure that it can meet the spirit and the letter of the law, namely that adolescents in our justice system are treated as the children they are. We encourage the City Council to continue oversight to ensure the law is implemented as intended and to ensure young people are treated in age appropriate ways that best serve youth and communities. If you have any questions or you would like further information, please contact Julia L. Davis, Esq., Director of Youth Justice and Child Welfare, 212-697-0882.