



**WRITTEN TESTIMONY OF
JULIA L. DAVIS, ESQ.
DIRECTOR OF YOUTH JUSTICE AND CHILD WELFARE**

**FOR THE ASSEMBLY STANDING COMMITTEE ON CHILDREN AND FAMILIES AND
ASSEMBLY STANDING COMMITTEE ON MENTAL HEALTH**

**PUBLIC HEARING ON ACCESS TO MENTAL HEALTH SERVICES
IN THE JUVENILE JUSTICE SYSTEM**

December 11, 2018

Submitted December 19, 2018

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.

In New York, we are dedicated to improving conditions for children across the State, based on research, public education, policy development, organizing and advocacy activities. Our priorities are health, education, early childhood, child welfare and juvenile justice. We co-lead the Raise the Age New York coalition, and sit on the Governor's Raise the Age Implementation Taskforce, with the purpose of ensuring that the law is implemented with fidelity to its principles. We also continue to work with State-wide stakeholders to push for further reform, including strengthening the continuum of services and supports for youth at-risk for, or who have contact with, the juvenile justice system.

We appreciate the opportunity to submit written testimony on mental health services provided to youth in the juvenile justice system and to help identify other supports and services that may be needed to meet their needs.

Continuing to Shrink the Juvenile Justice System Requires Investing in Mental Health Services

New York's youth justice system has been shrinking, with decreasing numbers of youth arrests, detention and placement/incarceration. Juvenile arrests (youth under 16 prior to implementation of Raise the Age in 2018) are down more than 60% over the last ten years, as is the number of juveniles in detention on any given day.¹ The number of children adjudicated as either juvenile delinquents or juvenile offenders and placed in Office of Child and Family Services (OCFS) institutions has decreased 80% over the last decade.²

These decreasing arrest and detention trends are also true among 16 and 17 year olds who are now beginning to enter the juvenile justice system under Raise the Age. Arrests of 16 and 17 year olds decreased more than 20% between 2017 and 2018 alone.³

Despite this progress, New York still has much work to do:

- We had over 10,000 juvenile arrests (under 16) and over 20,000 adolescent arrests (16-17 year olds) in 2017.⁴
- On any day, 200 of our children were living in a juvenile detention facility.⁵
- The percentage of cases “adjusted”, meaning resolved through children’s access to services—including mental health supports, rather than through the court system, remains unchanged over the last decade—at only 36%.⁶

Without accessible, high quality mental health services for youth, we will not make further progress in reducing youth contact with the juvenile justice system, and improving outcomes for those who do. This is because children who have contact with the justice system have significant mental health needs. As many as 7 in 10 youth in juvenile justice

¹ See DCJS Statewide Juvenile Justice Indicators (4/2018), available at: <http://www.criminaljustice.ny.gov/crimnet/ojsa/jj-reports/JJ%20Indicators%202010-2017.pdf>, at 1 (JD/JO Arrests/Criminal Activity) (JD/JO Detention).

² See OCFS Youth in Care Report (2016), available at: https://ocfs.ny.gov/main/reports/Youth_In_Care_Report.pdf, at 1 (Table 1. Total Admissions).

³ New York State Raise the Age data, Arrests involving 16-17 Year Olds by County and Region, January-June 2018 vs. 2017 (8/2018), available at: <http://www.criminaljustice.ny.gov/crimnet/ojsa/NYS%20RTA%20Arrests%20YTD.pdf>.

⁴ See note 1, *supra*; DCJS 2013-2017 Arrests Involving 16 and 17 year olds, available at: <http://www.criminaljustice.ny.gov/crimnet/ojsa/youth-arrests/nys.pdf>.

⁵ See *id.*

⁶ See *id.*

placements have a diagnosable mental health disorder.⁷ Girls in the juvenile justice system are at special risk—with higher rates of mental health conditions than their male counterparts.⁸ Many youth in the juvenile justice system have been exposed to multiple traumas, as victims of, or witnesses to, violence.⁹ The juvenile justice system can be seen as a public health system for vulnerable youth, responding to the large number of children whose unmet mental health needs drive them into our courtrooms.¹⁰

It is important to note detention and incarceration have been shown to exacerbate young people's mental health symptoms, and increase the likelihood that youth will engage in self-harm and commit suicide.¹¹ We must invest in a continuum of well-resourced, community-based mental health services and supports, and demand a trauma-informed approach from all juvenile justice stakeholders who have contact with our children (*i.e.*, schools, police, courts, probation, detention/placement/correctional staff, prosecution, presentment agencies, defense attorneys/attorneys for children, and service providers).

As Communities Implement Raise the Age, Mental Health Services Should Be at the Center of Local Plans

Last year's budget set aside \$100 million for Raise the Age expenses, and established a process for counties to prepare and submit local plans for State approval and 100% reimbursement for reasonable costs. Nearly every county has submitted its RTA implementation plan. The plans are now being reviewed by OCFS, the Division of Criminal Justice Services (DCJS), and the New York State Division of the Budget (DOB).

Counties have been encouraged to include mental health services as part of their planning.¹² As of now, the RTA Implementation plans are not yet public, so we do not know how State funds are being used to support the continuum of services that help reduce contact with the justice system, and support those youth who become justice-involved. We call upon the State agencies tasked with reviewing and approving these plans to provide oversight and guidance to communities to ensure that the service array

⁷ Skowrya, K. and Cocozza, J. *Blueprint for Change: A Comprehensive Model for the Identification and Treatment of Youth with Mental Health Needs in Contact with the Juvenile Justice System*, 2007. Available at: http://njjn.org/uploads/digital-library/resource_349.pdf at 1.

⁸ *Id.* at 3.

⁹ *Id.* at 43.

¹⁰ *Id.* at 1.

¹¹ See Gabrielle Prisco, *When the Cure Makes You Ill: Seven Core Principles to Change the Course of Youth Justice* (2011), available at: http://www.njjn.org/uploads/digital-library/When-the-Cure-Makes-You-Ill-Seven-Core-Principles-to-Change-the-Course-of-Youth-Justice_G.Prisco_NYLS-Law-Review_5.15.12.pdf, at 1436, note 13 (summarizing the research).

¹² See generally, *Raise the Age Local Planning Guide*, 2018. Available at: https://www.ny.gov/sites/ny.gov/files/atoms/files/RTA_Local_Planning_Guide.pdf.

for youth includes robust, accessible, trauma-informed supports through a mixture of State and local agencies and community-based providers.

This is especially important in many communities outside of New York City, where stakeholders report that youth struggle to access appropriate out-patient mental health and substance abuse services, and where there are a limited number of diversion programs that connect youth with the care they need to avoid deeper involvement with the courts. Furthermore, in light of State's decreasing need for detention and placement/incarceration, the end of State funding for detention for PINS¹³ youth under Raise the Age in 2020¹⁴, as well as the evidence that shows local, community-based therapeutic settings result in better outcomes for youth and public safety, the State should commit a significant portion of RTA funding to support prevention, alternatives to detention (ATD), alternatives to placement (ATP), and aftercare services for young people State-wide.

NYC's Administration for Children's Services and its community-based partners have led the State in reducing the size of the youth justice system and its reliance on both detention and placement/incarceration for juveniles and adult-charged adolescents, in large part due to the investment in mental health and other therapeutic community-based supports.¹⁵ Nonetheless, New York City is currently ineligible for any of the \$100M in State funds to support implementation of Raise the Age, which disadvantages the City's youth who represent the largest part of the system. Leaving New York City out of the Raise the Age implementation funding is short-sighted and threatens to undermine the investments that have supported the significant progress made there.

¹³ A child under the age of 18 who does not attend school, or behaves in a way that is dangerous or out of control, or often disobeys his or her parents, guardians or other authorities, may be found to be a Person In Need of Supervision or "PINS." All PINS proceedings are heard in Family Court.

¹⁴ In addition, under the recently reauthorized federal Juvenile Justice and Delinquency Prevention Act (JJDP), requires that within three years, youth charged with status offenses, PINS youth in our system, may no longer be placed in secure detention or locked confinement.

¹⁵ See generally, Columbia University Justice Lab, *Pre-Publication Discussion, Does Keeping Youth Close to Home Really Matter? A Case Study* (March 2018), available at: http://justicelab.iserp.columbia.edu/img/forum_handout_final_3.12.18.pdf; The Center for Children's Law and Policy, *Implementation of new York's Close to Home Initiative: A new Model for Youth Justice* (February 2018), available at: <http://www.cclp.org/wp-content/uploads/2018/02/Close-to-Home-Implementation-Report-Final.pdf>; Franco, F., *How New York City Achieved an Historic Drop in Youth Detention Admissions*, Juvenile Justice Information Exchange (Dec. 10, 2018), available at: <https://jjiie.org/2018/12/10/how-new-york-city-achieved-an-historic-drop-in-youth-detention-admissions/>.

The Supervision and Treatment Services for Juveniles Program (STSJP) Supports Mental Health Services for Justice Involved Youth

Another important resource to support mental health services for youth in the juvenile justice system is STSJP. Under New York Executive Law section 529-b, *et seq.* New York provides reimbursement for up to 62% of local expenses under STSJP for “services to divert youth at risk of, alleged to be, or adjudicated as juvenile delinquents or persons alleged or adjudicated to be in need of supervision, or youth alleged to be or convicted as juvenile offenders from placement in detention or in residential care.” STSJP provides about \$8 million in state funding annually to municipalities across the state (including New York City) for services across the continuum from prevention to reentry. According to the statute:

[S]ervices for juveniles may include but are not limited to services or programs that:

- (a) provide or facilitate support to such youth for mental health disorders, substance abuse problems, or learning disabilities that contribute to such youth being at risk for detention, residential placement, or return to detention or residential placement;
- (b) provide temporary respite care;
- (c) provide family therapy or support or explore alternate housing options for youth who are at risk for detention or placement due to the absence of an available home;
- (d) provide post-release support within the youth's community; or
- (e) reduce arrest rates or recidivism.

(Emphasis added.)

With implementation of the first phase of Raise the Age (effective October 1, 2018), OCFS, which administers the program, expanded eligibility for the Program to include youth who are alleged to be or are convicted as Adolescent Offenders (the 16 and 17 year olds charged with felonies and whose cases are heard in the new Youth Part). This funding stream should include support for local mental health and trauma-informed services as a central part for all STSJP activities and throughout the juvenile justice continuum, from prevention, early intervention, to ATD, ATP, and aftercare.

Moreover, local government agencies that seek STSJP funds are required to “engage in a collaborative effort in the community to support the successful planning and administration of STSJP-funded programs.”¹⁶ These plans must include the substantive

¹⁶ See OCFS guidance, available at: https://ocfs.ny.gov/main/jj_reform/recommendations-plans.asp.

input of all agency stakeholders (local departments of social services, probation, and the courts) as well as “service providers, schools, families and youth development programs.”¹⁷ STSJP is a critical vehicle for planning, coordinating and delivering mental health services to youth.

Restoring Preventative Funding to Support Mental Health Services for Justice Involved Youth

Preventative Funding is also a crucial component of the juvenile justice system throughout the State, and in New York City. A critical component of the City’s successful implementation of community-based services to reduce the number of children in both detention and placement has been the City’s ability to access the State’s preventive services funding stream, which reimburses counties at a rate of 62%. These services, which have been supported by the State and the City, have enabled youth to remain with their families, which is more cost effective and more successful at reducing youth’s penetration deeper into the system.

Unfortunately, these State funds have been reduced over the last decade. The State should restore funding for protective and preventive services from the current 62% state-share to 65%, as codified in statute. This statutory funding share has been reduced to 62% through the budget each year for the past 10 years, as a cost-saving mechanism. Investing in mental health services for youth at risk for, or in contact with, the justice system requires the State to meet its commitment to prevention, by supporting counties to increase and expand services to help keep more children at home with the supports they need to be successful.

Close to Home is a Therapeutic Model That Meets the Needs of Justice Involved Youth and Requires State Support

As the result of Raise the Age, the majority of 16- and 17-year olds will be processed in the juvenile system as opposed to the adult justice system. While reauthorization of Close to Home last session was a success, the elimination of State funding for the program places the full weight of New York City’s juvenile delinquency placement and aftercare programs on the City.

Providers of Close to Home services adhere to evidence-based models, some long utilized by the child serving agencies and some newly adapted to accommodate the population of youth brought to their care through Close to Home. Examples of evidence-based models utilized by Close to Home providers include the Missouri Model, the

¹⁷ *Id.*

Sanctuary Model, Integrated Treatment Model, and other trauma-informed models. In addition to these therapeutic approaches, the providers all offer mental health services to youth.

Once a young person has completed their placement in a Close to Home facility, they return home with continued support on aftercare. Services include a clinical intervention such as Multi-systemic Therapy for the youth and family to address any barriers to successful reunification.

Close to Home represents a marked improvement in the way that New York responds to justice system impacted young people in New York City. The success of Close to Home is critical not only for the youth currently served by the system, but also the young people in the juvenile justice system as a result of Raise the Age. The City expects a significant increase in the number of 16 and 17-year-olds who will need placement following adjudication in the family court. To expand to meet these needs, the City should have State support.

Conclusion

Approaching youth justice with the lens of mental health is essential, and we appreciate the Committees' joint interest in these issues. Continuing to move New York's juvenile justice system forward requires a continued focus on the unique needs of children, and what we know works best with regard to their care. Whenever safe and appropriate, youth with mental health needs should be prevented from entering the juvenile justice system. For youth who do enter the system, a first option should be to refer them to effective treatment within the community. For those few who require detention or placement, it is important to ensure that they have access to effective services while in care to help them return home successfully. New York's programmatic and financial resources must be organized and deployed to reach these goals.

We are eager to work with you and your colleagues in the Legislature to implement a comprehensive and thoughtful agenda that recognizes and meets the mental health needs of New York's children this session. Thank you for carefully considering our testimony.

If you have any questions or you would like further information, please contact: Julia L. Davis, Director of Youth Justice and Child Welfare, Tel. 212-697-0882, jdavis@childrensdefense.org.