



**TESTIMONY OF
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**Committee on Criminal Justice
Oversight Hearing - Department of Correction Programming**

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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.

In New York, we are dedicated to improving conditions for youth across the State, based on research, public education, policy development, organizing and advocacy activities. We are a member of the Department of Correction's Adolescent and Young Adult Advisory Board. 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 appreciate the opportunity to submit written testimony on the need for programs aimed at serving justice-involved youth in New York City.

Access to Robust Programming is Necessary for All Youth in the City's Custody

Whether adolescents who are now housed at the Administration for Children's Services (ACS) Crossroads and Horizon detention facilities¹, or young adults who remain on Rikers Island², the City must maintain its commitment to continued funding for programming that reaches as many youth as possible.

Adolescents and young adults in detention are significantly more likely than their non-justice involved peers to be disconnected from school, report having a disability, have unstable family relationships and housing, and be unemployed.³ Programming designed

¹ All adolescents who are remanded to detention are currently housed in ACS secure detention facilities.

² Young adults aged 18-21 who are remanded to detention are currently housed at Rikers Island in various jails overseen by DOC.

³ See Schiraldi, Vincent, Bruce Western and Kendra Bradner. *Community-Based Responses to Justice-Involved Young Adults*. New Thinking in Community Corrections Bulletin. Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 2015. NCJ 248900, available at: <https://www.ncjrs.gov/pdffiles1/nij/248900.pdf>.

for and targeted to their unique needs is essential to helping young people heal, thrive and succeed.⁴ Programming within the City’s detention facilities complements other mandated services for youth in these settings, including education, physical and mental health care, and recreation.

Programming For Youth 18-21 on Rikers Island Required By City Regulations: The Young Adult Plan

In 2015 the Board of Correction promulgated rules prohibiting the use of solitary confinement – known as punitive segregation – for adolescents and young adults 21 and younger on Rikers Island. The new rules recognized the vulnerabilities of adolescents and young adults, and the negative impacts that solitary confinement has on young people’s health and development.

The new rules also required the Department to replace solitary confinement for youth with a more developmentally-appropriate approach to working with young adults aged 18-21, including training for staff, new housing areas dedicated to youth, and “necessary alternative programming” intended to meet their unique needs.⁵ To comply with these regulations, the Department has created, and subsequently amended, its “Young Adult Plan” over the last few years.⁶

Young Adult Housing Areas: Creating a Program-Rich Environment for Youth

As of January 31, 2019, there were 646 young adults in detention on Rikers Island, representing 621 male and 25 female youth in custody.⁷ Experts recommend that “detained young adults should be housed separately from older, more sophisticated inmates whenever possible.”⁸

Despite the legal requirement to house all young adults aged 18-21 separately from adults (22 years old and older)⁹, the Department continues to commingle many 19-21 year olds with older incarcerated people. The Department has stated that its obligation to house “substantially all” young adults in exclusive young adult housing areas should “be quantified as no less than **50% of the general population of young adults (both male and female) at any given time.**”¹⁰ We are concerned that youth who are placed away from the dedicated units and are commingled with older adults will be less likely to engage in, or have access to, the age-appropriate programming to which they are entitled.

Moreover, the Department has indicated that it will use young adult’s expressed interest in education or programming at intake to determine whether they should be placed in

⁴ *Id.* at 9-10.

⁵ See Minimum Standards §§ 1-02(c)(2) and 1-17(a) and (b).

⁶ Department of Correction Young Adult Plan Update, dated Feb. 5, 2019, available at: <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/February/Young%20Adult%20Plan%20Update%20February%202019.pdf>.

⁷ *Id.* at 2.

⁸ Schiraldi, et al., available at: <https://www.ncjrs.gov/pdffiles1/nij/248900.pdf>, at 10; see also 14-15.

⁹ Minimum Standard § 1-02(c)(1). DOC does not commingle 18 year olds.

¹⁰ See FN 8, at 1. Emphasis added.

young adult-only housing.¹¹ Because so few youth were enrolled in school or engaged in programming at the time of their entering the jail, solely using a young person's expressed interest when entering the facility (described by the Department as "an overwhelming process"¹²) will result in missing key opportunities to connect youth with supports while they are detained.

Ensuring Access to Young Adult Programming, Regardless of Housing Area

All youth should participate in programming, unless there is some individualized reason based on their health, well-being or immediate safety that they cannot. Detained youth must be able to connect with "treatment, education and work-force development [led by] specially selected and trained staff, [and] be designed ... to reflect a more youth friendly and less correctional atmosphere."¹³

Based on our understanding, access to programming is currently restricted based on housing areas, and many of the opportunities (including Family Days and certificate programs) are only permitted for the small minority of young adults in the highest performing housing units. For example, workforce training and credential programs (e.g., carpentry, plumbing, culinary arts, electric, automotive, building maintenance, welding, cosmetology, make-up artistry, social media marketing) are only permitted for youth in the highest performing housing areas.

Indeed, following the Department's most recent presentation before the Board of Correction on February 12, 2019, it is not clear:

- Which programs¹⁴ are available to all young adults, regardless of whether they are placed in Young Adult-exclusive units, comingled units with older adults, protective custody, or other specialized units;
- Whether 5 hours of programming daily is available to every young adult regardless of their housing area/placement;
- How the Department continues to try to engage young adults in programming opportunities after they complete their intake/admission, regardless of their housing area/placement;
- Which programs are used as "motivation" or "rewards" for individualized or housing area behavior compliance; or,

¹¹ *Id.*

¹² See Department of Correction Young Adult Plan Update, dated Feb. 5, 2019, available at: <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/February/Young%20Adult%20Plan%20Update%20February%202019.pdf>, at 3.

¹³ Schiraldi, et al., available at: <https://www.ncjrs.gov/pdffiles1/nij/248900.pdf>, at 14.

¹⁴ See Department of Correction Young Adult Plan Update, dated Feb. 5, 2019, available at: <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/February/Young%20Adult%20Plan%20Update%20February%202019.pdf>, at Appendix A and B (listing "programs offered to young adults").

- Whether there are adequate numbers of correction staff to supervise and escort young adults to programming and other mandated services (including legally required education and health care).

It is important to recognize that over the past two years, programming offered through the Friends of Island Academy Youth Reentry Network has transformed the experiences of young people at Rikers, especially for adolescents and young adults at RNDC. This has contributed to the safety and well-being of incarcerated youth and staff. Despite this success, it is unclear which programs and contractors the Department will continue to work with, and whether it plans to change the current array of programs and/or the amount of funding for young adult programming.

We urge the City Council to explore these issues and concerns, and preserve the funding and supports for young adults in the Department of Correction's custody.

Programming for Adolescents in Raise the Age Facilities: Horizon and Crossroads

Generally, all youth entering, living in, and returning home from detention, require stable, continuous and coordinated care. Programming and services within facilities must identify young people's individualized strengths and vulnerabilities, help mitigate trauma, promote safety and security for youth and staff inside, and help ease the transition home.

Horizon

As a result of Raise the Age, the City removed all 16 and 17-year olds from Rikers Island, relocating them to Horizon Juvenile Detention Center in the Bronx. Horizon is home to not only the youth formerly held on Rikers Island, but also all newly arrested and remanded 17 year olds (so called "gap 17s" whose cases are not adjudicated under Raise the Age until October 2019).

Nowhere was the need for consistent, stable youth engagement and programming more necessary than during the first month of the transition of youth off of Rikers Island. Horizon's administrators implemented 180 hours of programming per week, working closely with Friends of Island Academy. The continuity of these relationships--begun with youth while they were still on Rikers--helped smooth the transition. After an adjustment period in the first two weeks, incidents at Horizon decreased significantly, as did injuries

to staff¹⁵ and youth.¹⁶ Rates of use of force against youth dropped 50%.¹⁷ This was achieved, in part, through this undisrupted programming and service delivery, and without the use of pepper spray.

The Friends of Island Academy, and other community based partners, were essential to reducing the violence and creating a safer facility. Their continued work, and that of other organizations serving youth in Horizon, is critical to the continued progress.

Crossroads

At Crossroads Juvenile Center in Brooklyn, where children charged as juvenile delinquents (JDs), juvenile offenders (JOs), and Adolescent Offenders (AOs) are held, providers including Friends of Island Academy, work with youth in the facility, and follow young people back into their communities after their release. These ties, built within the facility, and continuing after young people return home, help youth navigate school re-enrollment and engagement with necessary services and supports.

In addition, Children's Defense Fund-NY works ACS to operate a Freedom School at Crossroads, which is a literacy-based summer program for youth. The program aligns with positive youth development principles, encouraging youth engagement in academics, promoting healthy social development, civic engagement and social action, intergenerational servant leadership development, and nutrition, health and mental health.¹⁸

We urge the City Council to continue to ensure that these youth in both Horizon and Crossroads have access to these programming and supports.

Thank you for the opportunity to testify before the Committee. 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.

¹⁵ During the first two weeks of October, COBA reported "more than 40 staff had been injured", and that a total of 42 Horizon correction officers were out of work because they had been injured on the job. See *Prayer Vigil to Demand Change*, News 12, Oct. 9, 2018, available at: <http://bronx.news12.com/story/39259130/horizon-corrections-officers-hold-prayer-vigil-to-demand-change>; *Teen inmates went ballistic on corrections officers over do-rags*, Sara Dorn, New York Post, Oct. 13, 2018, available at: https://nypost.com/2018/10/13/teen-inmates-went-ballistic-on-corrections-officers-over-do-rags/?utm_campaign=iosapp&utm_source=twitter_app. COBA reports that 53 staff were injured over the first 42 days. This means that only 11 staff were injured in the following month between 10/12 and 11/11. This is a significant reduction in injuries to correction staff. <https://www.cobanyc.org/sites/default/files/press-release-11-29-18.pdf> at 2.

¹⁶ The federal court monitor reported that 40 youth injured during the first 28 days of October. See *Letter from Office of the Nunez Monitor*, Oct. 31, 2018. Electronically filed with the Court (SDNY) Case 1:11-cv-05845-LTS-JCF, Doc 319. COBA states the same number -- 40 "inmates" -- were injured over the first 42 days. See <https://www.cobanyc.org/sites/default/files/press-release-11-29-18.pdf> at 2. Thus, there were no reported youth injuries over the following 2 weeks.

¹⁷ See *Letter from Office of the Nunez Monitor*, Dec. 4, 2018. Electronically filed with the Court (SDNY) Case 1:11-cv-05845-LTS-JCF, Doc 320.

¹⁸ See generally, <https://www.childrensdefense.org/programs/cdf-freedom-schools/>.