



**Testimony of the Children's Defense Fund-New York
For the Deconstructing the Prison Pipeline Task Force
A Holistic Approach to Deconstructing the Prison Pipeline
May 10, 2019**

Delivered by Julia Davis, Director of Youth Justice and Child Welfare

Good morning. My name is Julia Davis and I am the Director of Youth Justice and Child Welfare at the Children's Defense Fund-New York (CDF-NY).

I want to thank Sheriff Toulon and Assemblywoman Jean-Pierre for hosting this important public conversation with the Task Force.

Our *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. We provide a strong, effective and independent voice for all children 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. Our 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.

I will focus my remarks on the cross-system aspects of youth justice and offer some recommendations for the Task Force's consideration. My colleague Charlotte Pope, who is also testifying today, will provide recommendations with regard to education policies and practices that contribute to push-out and the prison pipeline.

Suffolk County

Despite declines in adolescent arrests across the State, youth in Suffolk County are more likely than other New York youth to be arrested. During 2016 to 2017, among youth aged 7 to 15, we saw an 8.9% decrease in arrests across the State, whereas the decrease in Suffolk County was about half as much--only 4.1%.¹ More startling is the discrepancy among older adolescents: Statewide,

¹ STATEWIDE JUVENILE JUSTICE PROFILE, available at: <https://www.criminaljustice.ny.gov/crimnet/ojsa/jj-reports/newyorkstate.pdf>; SUFFOLK COUNTY JUVENILE JUSTICE PROFILE, available at: <https://www.criminaljustice.ny.gov/crimnet/ojsa/jj-reports/suffolk.pdf>

arrests among 16 and 17 year olds are down 21.7% from 2017 to 2018.² In contrast, arrests among the same age group in Suffolk County have not declined, but have slightly increased (0.6%).³

Positive Youth Development and Meeting Young People's Needs

Responding to the needs of adolescents who are at risk of contact with the justice system must begin with a developmental framework. Research into brain development underscores that adolescents are, in fact, children and that the human brain is not fully formed until the age of 25. As the cognitive skills of adolescents are developing, adolescents' behavior is often impulsive and they lack the ability to focus on the consequences of their behavior.⁴ Because the adolescent brain is still developing, their character, personality traits and behaviors are highly receptive to change; adolescents respond well to interventions, learn to make responsible choices, and are likely to grow out of negative or delinquent behavior.⁵

With this understanding, approaches to vulnerable youth at risk for justice-involvement should focus on Positive Youth Development, a theory of engaging youth that recognizes that certain "protective factors," or positive influences, can help young people succeed and keep them from having contact with the justice system.⁶ Positive Youth Development principles have been integrated into some of the State's practice models for youth justice, including new probation regulations recently promulgated under Raise the Age. This includes the overarching premise that young people have fewer behavioral problems and are better prepared for a successful transition to adulthood if they have a variety of opportunities to learn and participate at home, at school, in community-based programs and in their neighborhoods.

Elements that can protect young people and put them on the path to success include family support, caring adults, positive peer groups, a strong sense of self and self-esteem, and involvement at school and in the community. Importantly, Positive Youth Development models consider youth as assets to be developed and give them the means to build successful futures.

Positive Youth Development begins with ensuring:

- Physical and psychological safety and security;
- Clear expectations for behavior, as well as increasing opportunities to make decisions, to participate in governance and rule-making, and to take on leadership roles as one matures and gains more expertise;
- Emotional and moral support;
- Supportive adult relationships;

² New York State Arrests Among 16-17 Year Olds, January-June 2018 vs 2017, available at: <https://www.criminaljustice.ny.gov/crimnet/ojsa/NYS%20RTA%20Arrests%20YTD.pdf>, at 1.

³ *Ibid* at 19.

⁴ MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice. Issue Brief #3: Less Guilty by Reason of Adolescence, available at: http://www.adjj.org/downloads/6093issue_brief_3.pdf.

⁵ *Brief for the American Psychological Association, American Psychiatric Association, National Association of Social Workers, and Mental Health America as Amici Curiae, Graham v. Florida*, 130 S. Ct. 2011 (2010), available at: <http://www.apa.org/about/offices/ogc/amicus/graham-v-florida-sullivan.pdf>.

⁶ *See generally*, WILLIAM H. BARTON and JEFFREY A. BUTTS, *Building on Strength: Positive Youth Development in Juvenile Justice Programs* (2008), available at: <http://www.yapinc.org/Portals/0/Documents/Resources/Chapin%20Hall%20Report-YAP%20Mention.pdf>.

- Opportunities to form close, durable human relationships with peers that support and reinforce healthy behaviors;
- A sense of belonging and personal value;
- Opportunities to develop positive social values and norms;
- Opportunities for skill building and mastery;
- Opportunities to develop confidence in their abilities to master their environment;
- Opportunities to make a contribution to their community and to develop a sense of mattering; and
- Strong links between families, schools, and broader community resources.

Stakeholders here in Suffolk County have identified several systems that drive youth contact with the juvenile and adult criminal justice system, open opportunities for Positive Youth Development work, and should serve as urgent issue areas for the Task Force’s further enquiry and collaborative, cross-agency policy work.⁷

1. The Need for Stable Housing and Family Supports

The lack of stable housing for youth is a significant driver of arrests.⁸ Informal and temporary living situations, where youth have no permanent home, move from place to place, and are disconnected from trusted adults and supportive family members, make youth vulnerable to contact with the justice system.⁹ Youth living in even more vulnerable situations—including those on the streets—are often the victims of crime, including trafficking, as well as physical and sexual assault.¹⁰

Supporting stable housing for youth requires providing families with supports and services to reduce conflict. Youth in crisis shelter programs in New York report that learning to resolve conflict with a parent, guardian or other family member is the top service need.¹¹ Supporting stable housing for youth who cannot remain with their families is also essential. These youth need housing supports that will address independent living skills, education and employment, as well as mental health care.¹²

In New York, state law provides some resources for runaway (under 18) and homeless youth (under 21). Housing services are to be provided to these youth through crisis shelter, transitional independent living, and independent living programs. Based on data from 2016, the Spring Valley Region (including Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster and

⁷ These areas are outlined in detail by Judge Fernando Camacho in the context of Suffolk County. See Camacho, Honorable Fernando (2015) “Adjudicating Cases Involving Adolescents in Suffolk County Criminal Courts,” *Touro Law Review*: Vol. 31: No. 3, Article 5. Available at: <http://digitalcommons.tourolaw.edu/lawreview/vol31/iss3/5>.

⁸ *Consequences of Youth Homelessness*, National Network for Youth, available at: https://www.nn4youth.org/wp-content/uploads/IssueBrief_Youth_Homelessness.pdf.

⁹ *Education Barriers for Homeless Youth*, National Network for Youth, available at: https://www.nn4youth.org/wp-content/uploads/IssueBrief_Education.pdf. See also, The Urban Institute, *Urban Wire, Five Important Facts About Homeless Youth*, available at: <https://www.urban.org/urban-wire/five-important-facts-about-homeless-youth>.

¹⁰ New York State Office of Children and Family Services, *Runaway and Homeless Youth, Annual Report 2016*, available at: <https://ocfs.ny.gov/main/reports/2016-RHY-Annual-Report.pdf>.

¹¹ Ibid.

¹² Ibid.

Westchester counties) had 8 Crisis Shelter Programs for runaway or homeless youth with 87 beds, 5 Transitional Independent Living Support Programs (group homes or congregate care residences, including supportive settings) with 36 beds, and 1 Interim Family Program with 4 beds.¹³ Some stakeholders from Suffolk County report that these services – and other housing supports for youth and families, including respite settings – are difficult to access for adolescents at risk for, or involved in the justice system.

Housing and family stability go to the core of Positive Youth Development principles, including physical and psychological safety and security, as well as promoting ties to caring adults, and community resources.

2. Substance Use Among Youth with Histories of Trauma

Youth who have contact with the justice system have typically experienced trauma, and other Adverse Childhood Experiences (known as “ACES”) that have a long-term impact on their health and well-being.¹⁴ Justice-involved youth are more likely to have experienced trauma like violence, abuse and neglect, or the death or incarceration of a parent. This experience of trauma is the case among youth in Suffolk County as well.¹⁵

Recognizing and treating youth trauma, and addressing problematic substance use, is essential to promoting youth safety and a sense of security in the world, building a sense of belonging and value, and supporting ties to school, family, peers and other community-members. Despite this, stakeholders working with youth report that these services are difficult to access, often not tailored to youth based on their developmental stage, and often lack necessary cultural competence.

3. Mental Health Needs of Youth

Youth who have contact with the justice system have significant mental health needs.¹⁶ Research shows that as many as 7 in 10 youth in juvenile justice placements have a diagnosable mental health disorder.¹⁷ Girls in the justice system are at special risk—with higher rates of mental health conditions than their male counterparts.¹⁸ Indeed, the youth justice system can be seen as a public health system, responding to the large number of children whose unmet mental health needs drive them into our courtrooms.¹⁹ Suffolk County stakeholders confirm that unmet mental health needs often drive youth contact with the juvenile and criminal justice systems.²⁰

¹³ Ibid.

¹⁴ Applying ACEs to Juvenile Justice, *Chronicle of Social Change*, available at: <http://www.socialjusticesolutions.org/2014/11/14/applying-aces-juvenile-justice>.

¹⁵ See Camacho, Honorable Fernando (2015) “Adjudicating Cases Involving Adolescents in Suffolk County Criminal Courts,” *Touro Law Review*: Vol. 31: No. 3, Article 5, at note 7.

¹⁶ 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.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ See Camacho, Honorable Fernando (2015) “Adjudicating Cases Involving Adolescents in Suffolk County Criminal Courts,” *Touro Law Review*: Vol. 31: No. 3, Article 5, at note 7.

Whenever safe and appropriate, youth with mental health needs should be prevented from entering the justice system in the first place. 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 are detained, placed or incarcerated, it is important to ensure that they have access to effective services while in care to help them return home.²¹ As such, meeting young people's mental health needs is critical to all aspects of Positive Youth Development, including helping youth to develop confidence in their abilities to master their environment and to develop a sense of mattering in their community.

4. Access to Education and School-Based Discipline

I refer the Task Force to the testimony of my colleague, Charlotte Pope from Children's Defense Fund-New York, on this topic.

Recommendations and a Proposed Blueprint for Youth Justice in Suffolk County

As the Task Force is well-aware, the goal of improving services for youth requires a lot of hard work over time, sustained attention, collaboration, resources and political will.

To be effective, we recommend that you embrace (or, in some cases continue to pursue) some of the best-practices outlined in the research²² around youth justice systems change. We propose the following blueprint for your consideration:

- 1) Bring together a County coordinating body with the purpose of examining the drivers of youth contact with the justice system and creating a coordinated strategy of response that includes representatives from:
 - a) the various governmental systems that impact youth justice, including the local department of social services and child welfare, education, probation, juvenile detention, mental health, substance use and housing;
 - b) the courts, defense bar, prosecutors and presentment agency attorneys;
 - c) local providers, contractors, and community based organizations that serve youth and families and have credible ties with the community;
 - d) youth consumers and family members; and
 - e) advocates.
- 2) Designate a leader (or leaders in smaller working groups on these four topics) with expertise in the systems, as well as the related informal networks to focus on specific issues as they impact youth justice:

²¹ *Better Solutions for Youth with Mental Health Needs in the Juvenile Justice System, By the Mental Health and Juvenile Justice Collaborative for Change: A Training, Technical Assistance and Education Center and a member of the Models for Change Resource Center Partnership*, available at: <https://www.ncmhjj.com/wp-content/uploads/2014/01/Whitepaper-Mental-Health-FINAL.pdf>.

²² 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.

- a) housing and family stability;
 - b) youth substance use;
 - c) youth mental health; and
 - d) education and school push-out
- 3) Recruit political support for the coordinating body's work from community leaders, including judges and legislators;
- 4) Engage in a work group process that builds consensus across the systems about where the current gaps exist with regard to:
- a) housing and family stability;
 - b) youth substance use;
 - c) youth mental health; and
 - d) education and school push-out

by answering the following questions:

- How are we tracking the issues of housing and family stability, youth substance use, youth mental health, and access to education / school push-out in our work with youth in Suffolk County?
 - What information or data do we collect, and what gaps in our understanding have we identified?
 - How do youth connect with existing services and supports?
 - Which agencies and community based organizations provide these services?
 - What are the experiences of youth and families with these services and systems?
 - How effective are they?
 - Do we have gaps in these services?
 - What barriers do we face to effectively serving youth and families in these four areas?
 - What policies and practices do we need to change, and resources do we need to align to overcome these barriers and promote community accountability?
 - What metrics should we use to track our progress and measure success?
- 5) Create a coordinated written plan that targets these four issue areas, identifying both short-term and long-term policy and practice changes and/or resource needs that can be tracked and measured by the group; and
- 6) Create a financing plan to support the group's proposed objectives and strategies, and revisit this plan based on the availability of existing or new funding at the local, state and federal level.

In this effort, we urge you to continue to use public forums like these to drill-down on specific aspects of the Task Force's work with regard to youth justice, to engage community based organizations on the front lines with the most expertise serving youth at risk of contact with the justice system, and to create opportunities to hear from youth and families impacted by the system in your efforts around reform.

Conclusion

Thank you again for the opportunity to join you for today's public conversation. If you have any questions or you would like further information, please contact Julia L. Davis, Esq., Director of Youth Justice and Child Welfare at Children's Defense Fund-NY, 212-697-0882 / jdavis@childrensdefense.org.