



Testimony of
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Presented to the
New York State Senate Finance Committee
And
New York State Assembly Committee on Ways and Means

*Regarding the
New York State Executive Budget Proposals for
Public Protection
State Fiscal Year 2018-2019*

January 30, 2018

Good afternoon. My name is Grant Cowles and I am the Senior Policy and Advocacy Associate at Citizens' Committee for Children (CCC). CCC is a privately supported, independent, multi-issue child advocacy organization dedicated to ensuring every New York child is healthy, housed, educated and safe.

CCC does not accept or receive public resources, provide direct services, nor represent a sector or workforce. For over 70 years, CCC has undertaken public policy research, community education and advocacy efforts to draw attention to children's needs so that we can advance budget, legislative and policy priorities that produce good outcomes for our youngest New Yorkers.

I would like to thank Chairwoman Weinstein and Chairwoman Young and all the members of the Assembly Ways and Means and Senate Finance Committees for holding today's hearing on the proposals related to Public Protection in the Governor's Executive Budget for State Fiscal Year 2018-2019.

CCC recognizes the need to be fiscally prudent given the state budget deficit, the threats to New York's economy create by the new federal tax bill, and the potential for additional federal cuts. That said, we are very disappointed that the State's Budget is being balanced by cutting and curtailing services for the most vulnerable children and youth in the state, most glaringly impacting negatively the children of New York City.

CCC is deeply disappointed that the Executive Budget proposes to cap New York City's reimbursement for services that prevent child abuse and neglect at a time when the City has been successfully implementing a strong continuum of evidence based services and on the heels of a \$64 million state cut to foster care. Furthermore, the Executive Budget proposes to eliminate all \$41.4 million of state support for the Close to Home juvenile justice initiative, which is not only critical for justice involved youth but essential for the city's implementation of Raise the Age. The Executive Budget also failed to increase investments in programs that are essential to strong child and family outcomes, including children's behavioral health services, child care and Home Stability Support to prevent homelessness.

That said, there are several Executive Budget proposals that should be applauded. We appreciate proposals that add \$15 million for prekindergarten, \$10 million for after-school programs, \$50 million for community schools, \$7 million to restore previously cut funding for child care, \$4 million to address the minimum wage increase for the Summer Youth Employment Program, and \$100 million to implement a continuum of services associated with raising the age of criminal responsibility. We also support the Executive Budget's inclusion of the First 1,000 Days initiative, which is designed to better address the needs of young children, and we strongly support numerous legislative proposals including the Child Victim's Act and the Dream Act.

Given the need for New Yorkers to rely on their State and Local governments, more than ever, we urge the Legislature to negotiate a budget with the Governor that is balanced in a manner that does not threaten the well-being of children, youth and families.

Turning to the Executive Budget proposals related specifically to public protection:

1) JUDICIARY BUDGET

The Budget submitted by the Judiciary seeks \$2.23 billion for operating expenses, which is a \$44.4 million increase over the current year, or 2%. The Judiciary also requests an \$18 million capital investment for technology, security and records management.

This Budget request includes a \$3.7 million increase to the Attorney for the Child program, to accommodate the implementation of Raise the Age. This legislation is effective for 16 year olds in October 2018 (six months into the fiscal year), and there will be an increase in the number of youth with cases heard in Family Court as a result of the legislation. **CCC supports this proposed funding increase for attorneys for the children.**

Notably, Raise the Age is only effective for 16 year olds for half of the upcoming fiscal year, but next fiscal year will also include 17 year olds. The increase in juveniles in Family Court, plus the requirement that Family Court Judges preside in the Youth Parts in the adult courts (where more serious felony cases will still be heard), lead us to believe that the Judiciary will need more Family Court Judges in the SFY19-20 Budget. **We therefore urge the Judiciary and the Executive to plan for both a budget increase and legislative amendments to increase the number of Family Court Judges in SFY 19-20.**

The Governor has characterized the Judiciary Budget request as a 2.5% budget increase that goes above the 2% limit he has imposed on most other governmental agencies. The Governor has stated that the budget increase should only be permitted if the courts certify each month that they are operating from 9AM-5PM, and has suggested that the Comptroller should audit the courts to evaluate the accuracy of the certifications. **While CCC agrees that courts should be open and serving people and communities from 9AM-5PM, we oppose these proposals that give the Executive branch supervision-like authority over the Judicial Branch, as we believe this violates separation of powers.**

2) RAISE THE AGE IMPLEMENTATION

We would once again like to thank Governor Cuomo and the State Legislature for passing and enacting legislation to Raise the Age of criminal responsibility to 18 in New York State. As one of the organizations co-leading the Raise the Age-NY Campaign with Children's Defense Fund-NY, we were very pleased that New York passed comprehensive legislation that will keep more youth in their communities, provide developmentally appropriate services, and enable the overwhelming majority of 16 and 17 year olds to have their cases heard in the Family Court pursuant to the Family Court Act.

While passage of the Raise the Age legislation was momentous, ensuring that the law is implemented is critical to ensure that our justice system effectively supports and rehabilitates 16 and 17 year olds, while protecting public safety. We know that counties across the state have been working collaboratively with local law enforcement and social service agencies, courts, child advocates, and family partners on their implementation plans. A key component of implementation is ensuring that counties have the resources they need for services, such as probation, alternative to detention/placement, detention, placement, transportation, health and mental health services, education, and training, among others. **Throughout the negotiation**

process leading to passage of the law and in the statutory language, the Governor has committed to funding *all* county costs associated with Raise the Age—we urge the Legislature to hold the Governor to his word.

The Executive Budget includes the following proposals related to Raise the Age:

- a. Funding to Implement Raise the Age Statewide: The Executive Budget proposes \$100 million for county reimbursement for costs associated with the Raise the Age legislation. Pursuant to the legislation, for a county to be reimbursed for Raise the Age costs, it must remain under the 2% property tax cap or demonstrate financial hardship. This likely means that New York City will not be able to access these funds. There is also an additional \$50 million for capital expenditures related to Raise the Age included in the Executive Budget.
- b. Reauthorizing but Defunding Close to Home: The Executive Budget proposes a five year reauthorization of the Close to Home juvenile placement system in New York City, with the elimination of all state funding. Close to Home currently includes up to \$41.4 million state funding annually.
- c. Capping NYC’s Reimbursement for Some Services that Keep Youth out of Detention and Placement: The Executive Budget proposes a cap on the currently uncapped reimbursement (62% state share) funding stream for preventive services for New York City, which includes juvenile justice after-care and alternative to detention/placement services.
- d. Seeking Authority to Close Ella McQueen: The Executive Budget includes Article VII legislation to give the state authority to close the Ella McQueen intake facility in Brooklyn with 30-days notice (rather than 1 year). Ella McQueen is currently an OCFS-run intake facility for adjudicated youth that are supervised by OCFS.

a) **Funding to Implement Raise the Age Statewide**

CCC supports the Executive Budget proposal for \$100 million for county expenses for programming related to Raise the Age and \$50 million for capital costs, but we are concerned about how these funds will be distributed.

The inclusion of \$100 million for programming is a necessary investment to ensure the juvenile justice system has the elements that make it different than the adult correctional system, such as diversion programs, health and behavioral health services, juvenile probation support, and facilities appropriate for juveniles. The range of services and juvenile-specific programs are the essence of what makes the juvenile justice vastly more successful in supporting youth and protecting public safety. Raise the Age funding must be distributed in a manner that ensures all counties have the resources they need to successfully implement the whole continuum of services for youth, including community-based services, service-rich detention and placement facilities, transportation, etc.

The Executive Budget requires counties to submit a Raise the Age implementation plan by April 1, 2018. Given that the funding will therefore not be distributed until after the budget is adopted, the Legislature and the advocates will not be able to weigh in on how the money is distributed.

This means that we will not know whether all counties will in fact be reimbursed for all their predicted costs or whether all counties are planning to build a continuum of high quality services.

It is unclear about what specific services and programs the \$100 million will support. The proposed legislation leaves it up to state agencies (led by OCFS) to create the instructions for the counties to submit their plans to the state, but because all localities are different, it does not prescribe what services counties must fund. In short assessing whether all counties have the resources they need and are planning for the services advocates and legislators believe are necessary, will not be possible.

It is unclear when counties will know how much reimbursement they should anticipate. Counties must be prepared to serve 16 year olds by October 1, 2018, and the only information the budget provides is that applications are due April 1st without any information about when decisions will be given. This creates uncertainty for localities in the short term as they plan for implementation.

Notably, it also appears New York City will not receive any of the \$100 million of Raise the Age funding. Despite assurances that all counties will be reimbursed for all expenses associated with raising the age of criminal responsibility, the Raise the Age legislation requires counties to remain within their 2% property tax cap or demonstrate financial hardship to receive Raise the Age reimbursement. There is no proposal in the Executive Budget to accommodate New York City's need for raise the age funding if the City is unable to meet those requirements.

It is an important time to remember that the Governor's original Raise the Age proposal, dating back to SFY 2015-2016, has always included a commitment to fully fund Raise the Age.¹ New York City represents approximately half of the juvenile justice population in New York.² Not only does New York City seem excluded from Raise the Age funding, the Executive Budget proposes tremendous *cuts* to the City's juvenile justice system (these cuts are described in more detail below).

CCC urges the Legislature to negotiate an adopted budget, with the Governor, that upholds the State's commitment to include state funding needed for ALL counties, including New York City, to implement Raise the Age.

b) Reauthorizing but Defunding Close to Home

Close to Home, enacted in 2012, gave New York City the authority to operate its own juvenile justice placement system of non-secure and limited secure placement, and provided the City with up to \$41.4 million annually of state funding for the program. Close to Home sunsets on March 31, 2018. The Executive Budget proposes to reauthorize Close to Home for another 5 years, but eliminates *all* state support for the program.

¹ "Governor Cuomo Calls on Legislature to Raise the Age of Criminal Responsibility This Session." New York State Governor – website. May 28, 2015. Available at <https://www.governor.ny.gov/news/governor-cuomo-calls-legislature-raise-age-criminal-responsibility-session>.

² "2012 – 2016 Arrests Involving 16 and 17 Year Olds." New York State Division of Criminal Justice Services. Accessed on January 25, 2018. Available at <http://www.criminaljustice.ny.gov/crimnet/ojsa/youth-arrests/index.htm>.

Prior to the enactment of Close to Home, New York City's adjudicated youth (meaning youth found to have committed an offense under age 16 that would be a crime if they were an adult) who were ordered by a judge to be placed (meaning supervised in a facility that is not the home of the youth) were given to the custody of New York State's Office of Children and Family Services (OCFS). OCFS would place those youth in locations that were most often far from New York City. There were many barriers to the successful treatment of youth in these facilities, such as difficulty engaging family due to extreme geographic distance, lack of educational success due to the inability to transfer any education credits back to NYC's education system, and ultimately recidivism rates that were above 80% for youth from these facilities.³

Close to Home changed this system by giving custody and supervision to New York City for youth placed in non-secure or limited-secure facilities. The City's Administration for Children's Services (ACS) contracted with local child-serving providers to create small, residential facilities close to the youth's community. For the past five years, Close to Home has been providing a continuum of services to address youth and family needs, from before placement begins to well after the youth leave the placement facility. Close to Home has emphasized evidence-based and evidence-informed models, family engagement, trauma, education, health and behavioral health services, and thorough aftercare support. Close to Home has been an essential component for many of the positive trends seen in juvenile justice (including plummeting youth and young adult crime rates⁴).

Not only does New York City need state support for its current juvenile justice system, but the Executive Budget is proposing to cut all state funding precisely when the system is due to grow and need more resources from the implementation of Raise the Age, as some 16 and 17 year olds will also be placed into the Close to Home system. **This cut to all Close to Home funding is even more unconscionable in light of the fact that the City seems likely to receive \$0 of the identified \$100 million in funds for Raise the Age implementation .**

CCC strongly urges the Legislature to reject the Executive Budget proposal to completely defund Close to Home, and to negotiate a budget with the Governor that restores \$41.4

³ U.S. Department of Justice, Civil Rights Division, Loretta S. King. "Investigation of the Lansing Residential Center, Louis Gosset, Jr. Residential Center, Tryon Residential Center, and Tryon Girls Center." Letter. August 14, 2009. Available at

https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/NY_juvenile_facilities_findlet_08-14-2009.pdf.

Citizens' Committee for Children. *Inside Out: youth experiences inside New York's Juvenile Placement System*.

December 2009. Available at [https://www.cccnewyork.org/wp-](https://www.cccnewyork.org/wp-content/publications/CCCReport.JuvenileJustice.Dec2009.pdf)

[content/publications/CCCReport.JuvenileJustice.Dec2009.pdf](https://www.cccnewyork.org/wp-content/publications/CCCReport.JuvenileJustice.Dec2009.pdf). Rebecca Colman, Do Han Kim, Susan Mithcell-Herzfeld, and Therese A. Shady. *Long-Term Consequences of Delinquency: Child Maltreatment and Crime in Early Adulthood*. New York State Office of Children and Family Services. March 31, 2009. Available at <https://www.ncjrs.gov/pdffiles1/nij/grants/226577.pdf>.

⁴ Since the Close to Home initiative has begun, juvenile and young adult crime rates have decreased dramatically, and each year has set new record lows. From 2012 to 2016, NYC juvenile arrests have dropped 52% (from 9,675 to 4,615), juvenile detention admissions have dropped 37% (from 3,725 to 2,338) and juvenile placement admissions have dropped 77% (from 568 to 183). There have been similar declines for 16 and 17 year olds, including a 39% decline in arrests (from 23,671 to 14,500). "New York City Juvenile Justice Profile – 2017." New York State Division of Criminal Justice Services. September 1, 2017. Available at

<http://www.criminaljustice.ny.gov/crimnet/ojsa/jj-reports/newyorkcity.pdf>. "New York State Arrests Among 16-17 Year Olds – New York City." New York State Division of Criminal Justice Services. February 17, 2017. Available at <http://www.criminaljustice.ny.gov/crimnet/ojsa/youth-arrests/nyc.pdf>.

million for Close to Home for youth under 16 and includes an increase in funding necessary to ensure New York City can implement Raise the Age and serve the anticipated influx of 16 and 17 year olds.

c) Capping NYC’s Reimbursement for Some Services that Keep Youth out of Detention and Placement

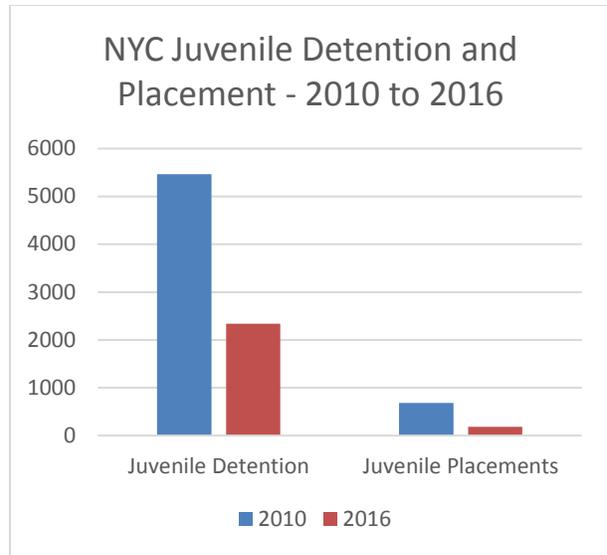
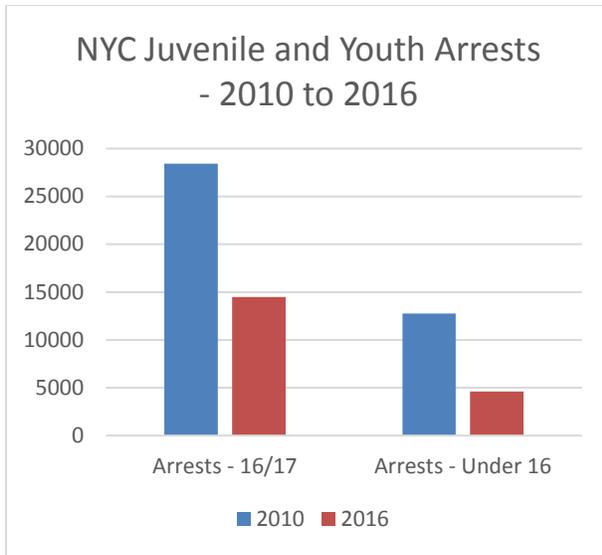
Keeping as many youth out of detention and placement facilities as possible is not only cost-effective, but produces better outcomes for youth and their families. Since 2002, New York State has had a child welfare financing scheme that capped foster care services, while incentivizing services that keep children safe and in their homes through programs like protective services, preventive services, independent living services and adoption administration. According to statute, after using available local funds, counties had received 65% state reimbursement for every local dollar invested in these programs. Since 2008, that reimbursement rate has been lowered to 62% state reimbursement. This financing scheme, which incentivizes the services that produce the best outcomes, has led New York City to become a national model with regard to preventive services. Notably, this budget proposal also relates to public protection, juvenile justice and Raise the Age because some non-secure placement is technically foster care, so counties can access this preventive services funding stream for alternative-to-detention, alternative-to-placement and aftercare services.

The Executive Budget proposes to cap this uncapped reimbursement structure for New York City, effectively making the open-ended funding stream into a block grant.

The data in New York City show how effective leveraging these resources have been at reducing youth crime, detention and placement – as all have significantly declined over the last decade. From 2010 to 2016 (the latest year with full data available), there has been a remarkable 63% decline in arrests for youth under 16, 57% decline in detention admissions, and 73% decline in placement admissions.⁵ The preliminary data available for calendar year 2017 through November show additional declines in all these categories.⁶

⁵ *Juvenile Justice System Trends: JJAG Meeting June 7, 2016* (presentation). New York State Division of Criminal Justice Services. June 7, 2017. Available at <http://www.criminaljustice.ny.gov/crimnet/ojsa/jj-reports/JJAG-Presentation-June-2016.pdf>. “New York City Arrests Among 16-17 Year Old - 2016.” New York State Division of Criminal Justice Services. February 17, 2017. Available at <http://www.criminaljustice.ny.gov/crimnet/ojsa/youth-arrests/nyc.pdf>. “New York City Juvenile Justice Profile – 2016.” New York State Division of Criminal Justice Services. September 1, 2017. Available at <http://www.criminaljustice.ny.gov/crimnet/ojsa/jj-reports/newyorkcity.pdf>.

⁶ “Monthly Indicator Flash Report – December 2017.” New York City Administration for Children’s Services. December 2017. Available at <http://www1.nyc.gov/assets/acs/pdf/data-analysis/flashReports/2017/12.pdf>.



In essence, the state is proposing to cap New York City’s funding for these programs just when New York City would be seeking to *expand* these services to serve 16 and 17 year olds under Raise the Age. This makes this cap especially harmful and contrary to efforts to ensure counties have resources to implement Raise the Age.

CCC strongly urges the Legislature to negotiate an adopted budget with the Governor that rejects this proposed cap on child welfare services reimbursement to New York City.

d) Seeking Authority to Close Ella McQueen

The Executive Budget proposes Article VII legislation to enable OCFS to close the Ella McQueen facility, located in Brooklyn, with 30-days notice, rather than 12-months notice. Ella McQueen is currently the State’s intake facility for youth placed into OCFS placement facilities (most of whom are no longer from NYC due to Close to Home.)

CCC was pleased to see this legislation, as we understand that New York City has requested that it take over Ella McQueen as part of Raise the Age implementation. With the movement of all 16 and 17 year olds off of Rikers Island, the City has stated that it needs the capacity at Ella McQueen. As we understand it, the City plans to use Horizons and Crossroads for most detention, but would use Ella McQueen as intake for detention. Youth detained for less than a week would never be transferred to Horizons or Crossroads.

While the Article VII legislation appears to be a step towards addressing the City’s request, it is our understanding that no agreement has yet been reached between the State and the City over the long-term plan for the facility. The Raise the Age legislation included a unique provision for New York City to remove all 16 and 17 year olds off of Rikers Island by October, 2018, which is a year earlier than other counties need to remove 17 year olds from their adult jails. There should thus be appropriate support for this expedited transition. For the City to be able to effectively plan and be in compliance by October 2018, they must know whether they will be able to rely on the capacity at Ella McQueen.

The Article VII legislation in the Executive Budget proposal to give OCFS authority to close Ella McQueen with 30 days notice *seems* to be a positive step towards allowing the City to use that facility. **CCC urges the legislature to include this Article VII bill in the adopted budget and recommends that if the transfer agreement is not reached soon, the adopted budget specifically include an agreement that Ella McQueen will be transferred to New York City to assist the City with Raise the Age implementation.**

3) CHILD VICTIMS ACT

Under current New York law, child sexual abuse offenses must be prosecuted within five years from the date of the occurrence and civil lawsuits must be brought by the victim's 21st birthday.

For too long, New York has ignored the realities of child sexual abuse. Victims of sexual abuse face many challenges to adequately seek their rightful justice through criminal or civil lawsuits, including ongoing fear from the perpetrator, worry about not being believed, social stigma, not understanding rights, and traumatic experiences when forced to recount the occurrence, among many others. The many barriers to seeking their rights are all multiplied when the victim is a child. The current laws provide minimal protections and do not account for the emotions or realities of child victims, while letting perpetrators off, even when the victim is later ready to speak up and bring charges. Child protection of all kinds must be a priority, and child sexual abuse is an especially heinous tragedy that deserves our State's utmost attention, awareness, and legal protections.

CCC is grateful to the Governor for including the Child Victims Act in the Executive Budget. The Child Victims Act would eliminate the statute of limitations for all felony sexually-related criminal cases when committed against a child who is less than 18 years old, extend the statute of limitations for civil claims to be 50 years from the date of the alleged offense, and provide for a one-year window for anyone who does not currently qualify under current law to bring a case. **CCC urges the Legislature to adopt a budget that includes the Child Victims Act.**

Conclusion

Public protection relating to children and youth is a vital component of our State's wellbeing, and the major advances made in Raising the Age in particular are a tremendous benefit. CCC is confident that New York can be a leader in community safety and child protection with the proper investments and commitment, and we look forward to continuing working with you to ensure all of New York's children are healthy, housed, educated, and safe.

Thank you for this opportunity to testify.