

Department of Correction
Statement to the Committees on Juvenile Justice, Fire and Criminal Justice
Services and Youth Services
Special Needs of Adolescents in New York Correctional Facilities
By Martin F. Horn, Commissioner
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Good morning Chairs Gonzalez, Martinez and Fidler and members of the Council.

We must begin by acknowledging the tragic death last month in our custody of Christopher Robinson, who was 18 years old. Because the case is under investigation by the Bronx District Attorney and is also the subject of litigation, there is little I can say today about his death. It was a great tragedy and we have him and his family in our prayers. We immediately notified the District Attorney, NYPD, and also the City's Department of Investigation. We rely on these agencies, in the interest of absolute independence and impartiality--to investigate such incidents. We are eager to get to the bottom of this case...not only to bring to justice those who are responsible ...but also to understand the circumstances of his death and so try to prevent future deaths.

This death is being investigated as a homicide. Homicide is a rare occurrence in our City jails. This was the first homicide in a New York City jail since 2004. And while even one death is a tragedy, I believe absolutely that no administration has worked harder to make our jails safe and secure and none has accomplished as much. I will tell you today about some of the things we have done.

I appreciate this opportunity to provide the Council with an overview of the issues facing adolescents in our custody, the challenges they present, a review of some of the programmatic interventions we have been able to implement and a view of what might be possible if we all work together.

At the heart of this discussion is the fact that in purely legal terms, 16 and 17 year olds are treated as adults in New York's criminal justice system. New York is one of only two states that continue to maintain 16 years as the threshold for adult criminal responsibility. Reasonable arguments can be made that young people aged 16 and 17 should be treated as juveniles, their cases handled in the family court and their detention managed by the Department of Juvenile Justice.

Chief Judge Kaye's Task Force on the Future of Juvenile Probation in New York State, of which I was a member, recommended that the Governor and Legislature

establish a commission to investigate whether New York should raise the age of criminal responsibility to 18. Unless and until the State Legislature chooses to change the law, we in the Department of Correction are responsible for the custody of these young people. But we all understand that they are adolescents, and this fact must always be taken into consideration as we face the special challenges they present.

As required by State law and the standards of the State Commission of Correction, we house all persons under the age of 19 separate and apart from older persons except for limited circumstances.

Let me give you a quick overview of our adolescent population. Of the 855 adolescents in DOC custody on November 7th, 813 were male and only 42 were female. (That is a higher ratio of males to females than the ratio in our older adult population). Of the male adolescents, 754 were detainees and only 59 were serving City sentences. Of the female adolescents, 33 were detainees and 9 were serving City sentences. The adolescent population contains proportionately more detainees than the older group. The vast majority of adolescents in custody in early November were 17 or 18, with only about 100 being 16 years old. Fully 80% of all adolescents in DOC custody are housed at the Robert N. Davoren Center (RNDC), a male facility.

Adolescents in our custody face very serious charges. In fact, they tend to be detained on more serious charges than our older adult population. While 76% of our older adult males were in custody on felony charges, **93%** of our adolescents were charged with felonies. Similarly, while 67% of our older adult females were charged with felonies, **78%** of female adolescents were held on felonies. And a recent snapshot of the criminal charges faced by our adolescent detainees showed that the most common charges faced by our adolescents were as follows: 44% were held on a charge of robbery; 13% were held on murder or manslaughter charges; 8% were charged with assault and 7% were held on weapons charges. And, a greater proportion of adolescents leave our custody with a sentence to State Prison than do the older adults.

Like the older adult population, most adolescents are in our custody for a very short time. The 90% of our adolescents who are detainees are discharged within an average of just 25 days. More than a third of adolescents leave within 3 days, more than two thirds within two weeks and 75% are gone within 30 days. Males have longer lengths of stay than females, with an average male detainee length of stay of 25 days versus an average female detainee length of stay of only 18 days.

The 100 or so adolescents serving City sentences at any one time have an average length of stay of 98 days. Though the average length of stay for adults and adolescents is similar, a greater proportion of adolescents leave DOC custody within 3 days and within two weeks than the older adults.

In addition, as you might expect, most of the adolescents are in our custody for the first time. In the last fiscal year, 60% of the adolescents admitted to jail were in our custody for the first time; compared to only 20% of older adults.

Similar to the older adult population, most adolescents in our custody are people of color; approximately 65% are black and 30% are Latino. They also come from the economically distressed neighborhoods in New York City, which led to their inclusion in the work of the Mayor's Commission on Economic Opportunity, which I'll discuss later.

Adolescents present unique challenges from a health and wellness standpoint. They are still developing physically and mentally. For many, their incarceration marks the first time that they have received a complete medical examination.

Adolescents also present a unique challenge from a mental health perspective. While their rate of mental illness is not markedly different from the older adult population, adolescents present with histories of family neglect and abuse but have often not yet sought community treatment for these issues; this is complicated by peer pressure that may make them reluctant to come forward for help in jail. In addition, some mental illnesses typically first occur during adolescence.

Adolescents also provide an opportunity to intervene with regard to substance abuse issues because addiction patterns have not yet hardened in many of these young men and women. The Department of Health and Mental Hygiene operates the Transitional Healthcare program for adolescents in RNDC and at the Rose M. Singer Center (RMSC) in order to help deal with substance abuse issues and other continuity of healthcare concerns.

To summarize, adolescents are with us a very brief time; (more than one-third leave within 3 days and two-thirds are gone within 2 weeks); because so many are detainees we don't know when most of them are going to be released, and they come to us with a constellation of substantial challenges. Notwithstanding, we make significant efforts to improve their condition despite the reality of limited resources.

Our number one challenge in all the jails is safety. As a result of many initiatives and constant attention our jails, RNDC included, are safer than they were when I took office and we are committed to making them safer still. Serious injuries to adolescents in RNDC declined from 33 in 2007 to 27 in 2008 for a decline of 18%. There have been no stabbings or slashings of adolescents in the 16 months, and adolescents have a lower rate of drug use than older adults as detected by our very robust random drug-testing program. There are proportionately fewer serious uses of force involving adolescents than we see with older adults, however, there are more assaults on staff by adolescents than occur among the older adults in our custody.

Adolescents fight much more than the adults at RNDC and elsewhere in our jails, and their fights erupt faster and get violent earlier than among the older adults. Of the 48 serious injuries to persons in custody in RNDC in (CY) 2007, 69% were experienced by adolescents.

The report of Judge Kaye's Task Force cites numerous studies that demonstrate that "adolescents are more volatile, more prone to risk taking behavior, less capable of governing impulses and more susceptible to peer pressure." In our jails, this takes the form of a tendency to engage in horseplay, bullying behaviors, and antisocial affiliations, which often translate into transient gang membership. More than older adults, adolescents tend to be taciturn and secretive, preferring to "man up" and deal with problems on their own than to admit to a weakness or vulnerability and ask an adult for help. They share an ethic against "snitching" and a wariness and distrust of adult authority.

To further enhance safety, we have installed over 2500 cameras throughout our jails so far, 336 in RNDC alone, and we are not finished. We have created a variety of housing areas that permit us to separate and more closely supervise those individuals who have shown themselves to be predatory towards others in custody as well as to protect those determined to be vulnerable. We now have the authority to listen to non-privileged phone calls, and every day are increasing that capacity. This is particularly valuable because the adolescents often don't want to tell us what's going on, so it is crucial to have other ways to obtain intelligence. And we are now able to require that all people in our custody wear department-issued sneakers, eliminating a significant item over which they fight. We continually enhance supervision, including our controls over telephones, commissary and television, all things that can be the basis of power struggles.

The Department uses a classification system to determine which of the persons in our custody are predatory and which vulnerable. The system is based on the behaviors we observe as well as the age and commitment offense of each individual; we have found the system enables us to separate well those persons requiring minimum security, medium security and maximum security. We are finalizing procedures with the Department of Juvenile Justice that will give us more information about the adolescents coming into our system so we can better assess the risks they pose or face.

Where we see fights we intervene to stop them. And in a change of approach from previous administrations, when I took office we began to investigate every fight and every serious injury in addition to the more visible stabbings and slashings. Often we discover that the events did not happen as originally described by the victims and can take steps to better address underlying issues.

We encourage all persons in our custody to report safety concerns. That message is reinforced through an orientation video, the handbook given to every person admitted to our jails, signage and other means. We use several approaches to encourage families and friends to report concerns, and provide them with telephone numbers to call. There are numerous opportunities for persons in our custody who are in fear to ask for help, beginning at intake. If they do not want to talk to a correction officer, they can use the Warden's hotline, or ask a counselor, a chaplain, a teacher, a nurse or a physician, among others. They can report their concerns confidentially to the Board of Correction or the State Commission of Correction. They can talk to their families who can and do report their concerns to us. When they appear in court, they can and do say something to the judge or their attorneys who then bring these matters to us. If a matter is brought to our attention by any means, we act on it swiftly and aggressively. And even where the adolescent fears to name others who may be threatening them, we can take appropriate action to ensure their safety.

You may hear today testimony from adolescents who will speak of having been harmed while in our custody. I only ask that you encourage them to provide their information to our Department or the Department of Investigation, if they have not already done so. And I repeat the invitation we gave in 2007 to the Correctional Association and the other member organizations of the Juvenile Justice Coalition, to work with us to identify ways to encourage adolescents to avail themselves of one of the varied reporting options I have described to you, and develop new approaches if necessary. The more information we have, the better job we can do.

The free confidential number of the Department of Investigation is posted in every housing area; that's the number to report wrongdoing by staff. Every such act is investigated, and if we receive an allegation of criminal activity, it is referred immediately to the Department of Investigation and, where a case can be made, to the Bronx D.A. for prosecution.

We will not tolerate staff that betrays our trust. In fact, over the past two years, five members of service were charged with criminal conduct or terminated at RNDC. **These were all cases that were identified and referred to the Department of Investigation by DOC managers.** I meet monthly with the Inspector General, along with the Chief of the Department and my Deputy Commissioner for Investigation, to review incidents and try to discern patterns. Most of our officers work tirelessly and selflessly to keep the adolescents in their custody safe and to run their units in accordance with our policies and procedures. When they are successful people are safe.

Education and other Program Services are an essential component of caring for those in our custody and keeping them safe. In New York City, all persons under the age of 18 who have not completed high school are required to receive an education, even in jail. Each day, over 550 adolescents are in schools on Rikers Island, taught by Department of Education (DOE) teachers and receiving a City DOE curriculum. DOE teachers and administrators are dedicated and creative. While there is enormous turnover in every class, nearly every day, in spite of this, and much to the credit of the DOE schools on Rikers Island, the pass rate of those who take the GED is roughly 80%, a higher percentage than at most testing sites in the State of New York.

We estimate that 20% of the adolescents in our custody are already parents themselves. With the assistance of groups like Friends of Island Academy and Youth at Risk, the schools are able to convey a basic understanding of what it means to be a parent and to provide help with the skills that will enable them to be better parents. Hour Children's Foundation has been very helpful in working with young women who are parents at a young age and helping them to transition back to the community.

Recognizing the benefits of more structure in our adolescent housing units, we implemented the Institute for Inner Development (IID) program in several adolescent housing areas. IID seeks to utilize jail time as an opportunity to equip adolescents with essential skills and change destructive patterns of behavior. It represents a cultural shift away from the conventional jail setting that is focused

solely on custody and control to a therapeutic environment aimed at attitudinal and behavioral change, building self-esteem and acquiring basic life skills. Specially trained officers who volunteer for this duty lead the program, and the results are astounding. Beginning with some of the most difficult adolescents, these housing units have shown dramatic reductions in fights, serious injuries and other indicators of misconduct. Today IID operates in units housing 200 of the approximately 690 adolescents housed in RNDC. It requires a very special kind of officer to succeed; highly mature, motivated, balanced and very conscientious. It is emotionally draining for the officers but those who have volunteered for it do so out of a commitment to the welfare of those in our custody that every citizen of New York should be proud of. They are the best of the boldest. We are in the process of documenting the results through collaboration with the John Jay College of Criminal Justice. We are also working to expand IID, and eventually will bring it to bear in all adolescent units. But it requires careful staff selection, rigorous training and close supervision. It won't happen overnight.

We know that almost half of the individuals who leave our jails will return within a year; this is true both for older adults and adolescents. Two years ago, as part of the citywide discharge planning effort and with the Council's support we began an adolescent reentry program (ARI) specifically targeted at the 16 to 18 year olds sentenced to our custody. That program, run by the Vera Institute of Justice, was focused on working with sentenced adolescents while they were incarcerated, getting them connected to school and jobs on the outside and working with them to stay engaged as a way to change the behaviors that brought them to jail in the first place. A significant level of effort was devoted to getting this program off the ground and "getting it right". It was just becoming fully operational and beginning to show promise of success in breaking the cycle of recidivism for this group of young people. Unfortunately, due to budget constraints the necessary funding was no longer made available. In these times of scarcity, I can't imagine a better investment of City resources and hope that together we will be able to get it up and running again.

Last year, with monies from the Mayor's Commission on Economic Opportunity (CEO) we began several additional efforts to keep adolescents from returning to jail. We have a program to expand the number of non-mandated students (those over 18) who have access to school while incarcerated. We fund after-jail programs focused on basic literacy for those who are far below their indicated grade level. We have a mentoring program for those who get engaged in school while incarcerated and need help and support to continue in school or work after jail. And we have a program that connects young people to the City University of

New York either to complete their GED or to begin Community College. Our partners in these initiatives: Friends of Island Academy, CUNY/CATCH and Getting Out/Staying Out all engage young people while they are incarcerated and continue to work with them after release. In the year that the CEO after-jail programs have been operating, over 525 young people in the targeted age groups have arrived for services in the community.

Given limited resources, the Department has attempted to piece together services from various funding sources, often in collaboration with DOE and other City agencies, to engage service providers in providing opportunities for young people to use jail time as an opportunity for change. They include:

The Creative Arts Team (CAT), collaboration with the Department of Youth and Community Development (DYCD) that sends teams of actors/teachers to Rikers Island schools to conduct educational workshops for adolescents. Through creative workshops, CAT addresses issues such as responsibility, critical thinking, communication and anger management, the causes and consequences of violence, substance abuse, and related risks. Over the last three years, CAT has delivered over forty workshops per year in several facilities on Rikers Island, to an average of more than 300 people per year.

In August of this year, the Progressive Education Program (PEP) delivered more than 200 workshops to young people in areas such as Overcoming Toxic Thinking, Dance and Yoga. Hundreds of young people were able to take advantage of these workshops and to expand their thinking about what is possible for them.

The Groundswell Community Mural Project, a group that uses art to explore creative expression, promote communication and engage young people, worked with the young men in the IID program to design and create a mural now holding a place of honor in the hallway of the adolescent jail which we will be happy to show you if you visit. The group is now planning several additional mural projects with the adolescents.

Correction Officers in the jails have also been creative in finding ways to productively occupy time and relieve boredom that often leads to trouble. They create basketball and other sports tournaments, talent shows, bring in outside groups to provide entertainment, select videos of interest and promote positive discussions and mutual support among those in their care.

Having said all this let me repeat that we face tremendous challenges. These incarcerated adolescents are the City's children, and we take seriously our responsibility toward each person in our custody. We are going to continue to do the best we can to find additional resources, but in this tough economic time it's going to be difficult. What we all know is that failure to make this investment carries a far steeper price. We welcome your help.