Testimony of

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Assembly Standing Committee on Codes and the Assembly Standing Committee on Correction

Oversight Hearing: Sealing of Criminal Records and Expansion of Youthful Offender Status

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Good morning. I am Raysa S. Rodriguez, the Associate Executive Director for Policy & Advocacy at the Citizens’ Committee for Children of New York, Inc. (CCC). CCC is a 74-year-old independent, multi-issue child advocacy organization dedicated to ensuring that every New York child is healthy, housed, educated, and safe.

Thank you Chairs Joseph R. Lentol and David I. Weprin, and all members of the Assembly Standing Committees on Codes and Correction for holding today’s oversight hearing on the Sealing of Criminal Records and the Expansion of Youthful Offender Status. This is a momentous opportunity for New York State to model evidence-based youth justice policy as a national leader. We applaud and support your efforts to reform and implement laws that align with science on adolescent and young adult brain development, and that aim to improve outcomes for justice-involved youth. CCC thanks you for the opportunity to provide testimony backed by fact-based advocacy and data-driven methods that prioritize the safety of children, including justice-involved youth.

*Raise the Age Legislation: A Move in the Right Direction*

CCC was a co-lead in the Coalition that fought to pass legislation to *Raise the Age* of criminal responsibility for youth in New York in April 2017. These laws were several years in the making and marked a long-awaited victory for New York’s children, youth, and families, and also Black and Latinx communities whom are often over-policed and over-represented in the juvenile justice system. Raise the Age legislation ended the automatic prosecution and

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1 In this testimony the terms young adult, emerging adult, and older youth will be used interchangeably to mean young people between the ages of 18 and 25 years-old.
confinement of 16- and 17-year-olds as adults.\textsuperscript{2} This legislation changed how youth are processed in New York’s court system and aimed to provide “age-appropriate services and facilities that would promote an environment focused on wellbeing and rehabilitation for young people.”\textsuperscript{3}

In the last two years, CCC has monitored Raise the Age implementation, which removed all 16-year and 17-year-olds from Rikers’ Island Adult Correctional facility in October 2018 and October 2019, respectively.\textsuperscript{4} Thus far, the data suggests that we are heading in the right direction. In New York City, the Mayor’s Office of Criminal Justice, which reported on the first nine (9) months of Raise the Age implementation, 80% of 16- year-olds arrested for felonies had their cases removed from the Youth Part of the State Supreme Court to Family Court.\textsuperscript{5}

Importantly, under this legislation, Youth Part judges obtain specialized training in adolescent behavioral development.\textsuperscript{6} The City has also seen a 61% decline in misdemeanor arrests for 16-year-olds, and an overall 30% decline in detention for youth under 18-years old. In this year’s Mayor’s Management Report\textsuperscript{7} we also found that consistent with trends \textit{before} the passing of Raise the Age, there was a decrease in the placement of youth in detention facilities, as well as a

\begin{itemize}
\item \textsuperscript{3} \textit{Ibid}.
\item \textsuperscript{4} Glazer, pg. 6.
\item \textsuperscript{5} Glazer, pg. 4.
\item \textsuperscript{6} Glazer, pg. 5.
\end{itemize}
decrease in the length of time youth are confined. Moreover, there has been a decrease in reported youth-on-youth assaults. 8

Today’s hearing to discuss the sealing of criminal records and to expand protections with a new youthful offender status—“Young Adult Offender”—is a critical next step in implementing Raise the Age legislation, in strengthening our juvenile justice system, and in creating a more just society for young adults.

Reforms Need to Protect Emerging Adults Too

While Raise the Age legislation made important reforms, it did not go far enough and left out protections for both younger and older youth in the development continuum. CCC continues to advocate alongside partners to raise the lower age of jurisdiction for juvenile delinquency from 7 to 12 years old. However, for the purposes of this hearing, we will focus on expanding protections for emerging adults, specifically older youth who are not protected under current Raise the Age legislation: 19 to 25 year-olds who are still tried as adults despite science that points to the fact that many adolescents’ and young adults’ brains continue to develop through the age of 26 years. 9

One of the most concerning consequences of being tried as an adult in New York State is that older youth have to face the impact of a life-long criminal record regardless of the type of

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8 While there was a slight increase in reports of youth-on-staff assaults, the Mayor’s Management Report states: “the increase in the youth on staff assault rate is attributable to the consolidation of the juvenile delinquent, juvenile offender and adolescent offender populations into the Crossroads Juvenile Center during the implementation of the Raise the Age law.” In response to these incidents, the Administration of Children’s Services (ACS) is incorporating a new behavior management system, which they anticipate will result in a decrease in the number of assaults. Ibid.

crime committed, including non-violent crimes. Every time a formerly detained young adult seeks employment, a background check will result in limited opportunity due to their open criminal record. Criminal records preclude them from gaining access not only to work, but also to housing and higher education, and any other opportunities that enable them to re-integrate into society and thrive. Given the collateral consequences of adult incarceration, trying older youth as adults is arguably extremely punitive and counterproductive to our system’s collective goal to rehabilitate young people. In light of these findings, CCC supports the creation of a “Young Adult Offender” status to provide protections for emerging adults that both reflects what research in neuroscience and psychology tell us about adolescent and young adult behavior, as well as guarantees the sealing of their criminal record upon completion of sentencing.

**The Adolescent Brain and the Case for the Creation of “Young Adult Offender” Status**

Every year, the criminal justice system impacts thousands of young New Yorkers. There is well-documented evidence of the trauma experienced by a majority of detained youth prior to and during confinement. In the most comprehensive study to date of youth in the juvenile justice system in the U.S., epidemiologists found that psychiatric disorders worsened for individuals who had been detained in a juvenile facility.

Exposure to abuse and existing barriers to mental health services within facilities, further harmed young people in custody. At

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this critical stage in their development, confinement is not productive to their rehabilitation, but rather it debilitates their capacity to learn from their mistakes and not recidivate.

To address these concerns, CCC proposes that similar to existing legislation for young offenders up to age 18, older youth (up to age 25) should also be given shorter sentences, including sentences in their communities rather than confinement in jail or in prison. We furthermore support legislation that would facilitate rehabilitation, even if the young person already received youthful offender status for a felony. To that end, an impartial judge well-trained in adolescent behavioral development can use discretion to grant emerging adults with a “Young Adult Offender” status. Expanding protections to older youth would better align youth justice policy with science on brain development and young adult behavior.

Scientific research shows how a person’s brain develops slowly and takes much longer than their outward physical appearance suggests. For instance, one study showed that when researchers compared MRI brain scans of youth and adults, there were notable differences. Scientists found that the parts of the brain responsible for more complex functions are last to mature, which for most people means that their brain does not finish developing until their mid-twenties. Specifically, the prefrontal cortex (or frontal lobe), is the last part of the brain that develops. The prefrontal cortex handles complex functions, such as impulse control, long-term thinking, recognizing risks, emotional regulation, reasoning, and denying instant gratification. For adolescents and young adults, MRI scans show that the parts of the brain responsible for

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emotions and immediate desires are the parts used most heavily when making decisions. This can explain why young people often seem to have less self-control, are drawn to higher levels of risk and stimulation, make decisions that are not in their long-term best interest, and are generally bad predictors of consequences.

The underdeveloped brain of an adolescent or young adult is also, by nature, primed for change. The same immaturity of the adolescent brain that may lead to risky behavior also makes the adolescent and their brain more receptive to rehabilitative services. The developmental nature of youth up to age 25 makes them physiologically primed to changing their thinking and behaviors about criminogenic norms and beliefs, either for good or bad. We know that the adult criminal justice system harms youth development, whereas the juvenile justice system, especially one that can utilize community-based resources to support court-involved youth, can provide the services needed for pro-social development that do not involve such extreme forms of isolation and/or excessive force.

Considering these facts, CCC supports the implementation of legislation that provides emerging adults in the justice system with developmentally appropriate resources to increase their wellbeing and lead them back to a healthy and safe path. Expansion of protections for system-involved emerging adults and record sealing ensure that emerging adults in detention are accounted for, thus keeping with the original goals of Raise the Age Legislation to “promote an environment focused on the wellbeing for young people.” Additionally, CCC supports reforms that would allow judges to maintain youthful offender status and “Young Adult Offender” status cases private to prevent information from being disseminated online, an issue which would further harm the emerging adults even after the case has been sealed.

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15 Glazer 2019, p. 4.
As an organization focused on fact-based advocacy, CCC strongly supports the proposed reforms and we urge the Committees to continue to take steps to stand up for the rights and wellbeing of young people, including emerging adults, involved in the justice system. We must remember that for the thousands of young adults that pass through the system every year, we have thousands returning to their home communities. It behooves us to have well-adjusted young people returning to our communities rather than hardened, traumatized, and overly punished individuals.

CCC looks forward to working closely with the Committees to create policies that ensure that each New York City young adult is afforded the rights and opportunities to learn and grow from their transgressions, to reintegrate into society with dignity, and to lead productive lives.

Thank you for the opportunity to testify today.

Respectfully,

Raysa S. Rodriguez