



**BROOKLYN  
DEFENDER  
SERVICES**

**TESTIMONY OF:**

**Rebecca Kinsella – Youth Social Worker**

***BROOKLYN DEFENDER SERVICES***

**Presented before  
The New York City Council Committee on Juvenile Justice  
Hearing on Intros 1237, 1451, 1452, 1453 & Res. 1025  
on  
February 13, 2017**

My name is Rebecca Kinsella and I am a youth social worker for Brooklyn Defender Services. BDS provides innovative, multi-disciplinary, and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for tens of thousands clients in Brooklyn every year. I thank the City Council Committee on Juvenile Justice and Chair Fernando Cabrera for the opportunity to testify today about the many ways that the City Council can foster engagement between detained youth and their families.

Brooklyn Defender Services' has a specialized adolescent unit, called the Brooklyn Adolescent Representation Team, or BART. Our team represents over two thousand adolescents ages 13-21 annually. In the past five years, BART has represented over 150 youth ages 13-15 charged with JO offenses, many of whom are detained in ACS facilities pre-trial. My caseload includes adolescents detained at Crossroads and Horizons, ACS detention facilities in Brooklyn and the Bronx, as well as young people detained on Rikers Island.

Family engagement during detention is critical to minimize harm to youth and the family upon reentry to the home. We represent many young people in adult court

who return home from juvenile detention without sufficient support and are quickly re-arrested because of fights in the home. According to Covenant House, 50% of adolescents aging out of foster care and the juvenile and criminal justice systems will be homeless within six months. When youth are kicked out of the home or ordered out of the home by a judge they have very few options because many are unprepared to live independently, have limited education and no social support. This leads to couch surfing, repeated shelter visits, trading labor or sex for a place to stay, and all too often, another round of criminal justice involvement.

Parental and family engagement by the juvenile justice system is proven to be effective for better youth outcomes. A National Academy of Sciences (NAS) report cited evidence that a relationship with a parent or other adult figure can have a positive impact on an adolescent, serving as a protective buffer against external negative influences. Other research has shown that family visitation for youth is associated with better behavior and improved academic performance. And it is clear that most families want to play a bigger role: in a survey of family members, 86 percent said they wanted to be more involved in their children's treatment while they were incarcerated (Justice for Families, 2012).<sup>1</sup>

The bills before this Committee today are an important first step towards promoting family engagement in the City's juvenile detention facilities, hopefully one that can be replicated for older teens on Rikers Island.

### **Intro No. 1237**

BDS supports Council's efforts to require ACS to maintain electronic health records for youth in the justice system. Maintaining electronic records will allow the young person's records to more easily follow them into the community and facilitate the re-entry transition. We have seen how the transition to electronic health records on Rikers have allowed for a better continuity of care for our clients when they seek health services in New York City hospitals. This is particularly critical for our clients with developmental disabilities or mental health issues, a group that is over-represented in both the adult and juvenile justice systems.

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<sup>1</sup> Vera Institute of Justice, "Family Engagement in the Juvenile Justice System," available at <http://archive.vera.org/sites/default/files/resources/downloads/family-engagement-juvenile-justice.pdf>.

Further, in the event this information is relevant to a legal case, this bill will make requesting and obtaining ACS medical records easier and quicker. Medical records can sometimes play a vital role in criminal cases and obtaining these records has proven to be somewhat slow and challenging in the past.

### **Intro No. 1451**

Brooklyn Defender Services supports the Council's effort to expand the category of people who are able to visit detained youth. Families in the twenty-first century often include parents, caregivers and siblings who may not be blood relatives. Yet ACS' visitation policies do not always take these realities into account. This bill would allow clergy, coaches, teachers and other adults in a young person's life to visit, a much-needed change that would help to maintain a young person's community ties during incarceration.

As I noted before this Committee in September, siblings are not allowed to visit Crossroads without a birth certificate and the parent that accompanies the sibling must be a biological parent. These rules make visiting difficult for many loved ones. A parent who does not have a birth certificate for a young child will be turned away from the visit when they fail to bring the birth certificate or are forced to find childcare. Siblings who miss their brother or sister are unable to visit unless the parent that accompanies them is a biological one. These rules have the adverse effect of limiting family engagement and harming young people who need the support of their loved ones while they are incarcerated.

BDS supports Intro. 1451 and respectfully encourages the Council to go further than the proposed language, amending the bill to ensure that siblings may visit without an accompanying biological parent or a birth certificate.

### **Intro No. 1452**

BDS supports the Council's effort to provide video conferencing in detention facilities, which permit youth to have communication with their families and support networks in addition to in person visits. The family or person of support for the youth may also be caretakers for other children and/or have employment commitments that

make regular in person visits difficult. The ability to maintain contact through video conferencing with the incarcerated youth allows the youth to continue to feel supported by their family and community and ultimately reduce recidivism<sup>2</sup>.

BDS supports Intro. 1452 and encourages the Council to amend the language to allow youth to have video conferencing for youth and their families and people in their support network in order to maintain family and community bonds. We respectfully ask that the Committee consider amending the bill language to make clear that any video conferencing should be free to both parties on the call. In some jurisdictions, friends and family members must pay \$20 for 20 minutes video conferences.<sup>3</sup> We strongly believe that no bill should increase costs to our clients' families, particularly when the detainees are children themselves. Also, the bill language should be clear to ensure that the video conferencing should be available in the alternative, but not to the exclusion of, in-person visitation. No one should be denied an in-person visit because of the capability for video conferencing.

### **Intro. No. 1453**

BDS supports this legislation to provide youth privacy during phone calls, upon request, as it will help strengthen family bonds and provide the youth an opportunity to create a support system with those in their community. Visiting rooms at both Crossroads and Horizons are large and parents meet their children without any privacy. Caseworkers allow youth to call their parents or guardians for 10, 20 or 30-minute intervals, depending on their behavior. However, calls are not private. This lack of privacy negatively affects family relationships because, often times, neither parent nor child feels like they may speak candidly. This also discourages open conversations about the case and plea offers, leaving adolescents forced to choose between discussing the private details of their case in a public space or in front of their caseworkers, or making life changing decisions on their own without family support.

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<sup>2</sup> PACER Center, "Improving Family Involvement for Juvenile Offenders with Emotional/Behavioral Disorders and Related Disabilities" (2010) available at <http://www.pacer.org/jj/pdf/bedi-36-01-52.pdf>.

<sup>3</sup> Eric Markowitz, "Video Chats are Replacing In-Person Jail Visits, While One Tech Company Profits, International Business Times, April 8, 2015, available at <http://www.ibtimes.com/video-chats-are-replacing-person-jail-visits-while-one-tech-company-profits-1873918>.

BDS supports Intro. 1453, and encourages the Council to amend the language to go further in providing youth and their families the privacy to have visits and phone calls without fear of being overheard by others.

**Res No. 1025**

BDS clearly supports Council's effort to call upon the state legislature to allow youth the right to protect themselves from incriminating statements of admission made during mental health screening and subsequent treatment in any criminal proceedings. As set out in *In re Gault*, 387 US 1 (1967), juveniles have a constitutional right to due process including the right to be protected against self-incrimination statements without procedural safeguards in place. Yet the reality is that there are still many contact points in the criminal justice system where people's rights are violated. Mental health screenings and treatment provided are for the rehabilitation and treatment of the youth not part of the fact-finding investigation and therefore should be explicitly protected.

We believe that this legislation will not only foster family engagement but may have the additional effect of preventing future criminal justice involvement and youth homelessness, ultimately keeping our communities and our young people safe. We are grateful to the Council for seeking to eliminate some of the barriers that separate detained youth and their families.

Please do not hesitate to reach out to me with any questions about these or other issues at (718) 254-0700 (ext. 362) or [rkinsella@bds.org](mailto:rkinsella@bds.org).