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New York City Council
Committee on Education
Robert Jackson, Chair
Committee on Juvenile Justice
Sara M. Gonzalez, Chair
Committee on Public Safety
Peter F. Vallone, Jr., Chair

Oversight Hearing: School Safety

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Submitted by:

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Good afternoon. I am Nancy Ginsburg, Director of the Legal Aid Society's Adolescent Intervention and Diversion Project in the Criminal Practice. I submit this testimony on behalf of the Legal Aid Society, and thank the Committees on Education, Juvenile Justice, and Public Safety, and Chairs Jackson, Gonzalez and Vallone, for the opportunity to testify about school safety. Specifically, we will focus on the effect on students of having more than 5000 School Safety Agents (SSAs) currently assigned by the NYPD to police New York City's public schools.

The Legal Aid Society is the nation's largest and oldest provider of legal services to poor people. In our Juvenile Rights Practice, we provide legal representation City-wide to children who appear before the New York City Family Courts in child welfare, juvenile delinquency and other proceedings affecting children's rights and welfare. Last year, our attorneys and social workers represented more than 30,000 children, including some 4000 children aged 7-15 who were charged with juvenile delinquency in Family Court. Our Criminal Defense Practice handled some 225,000 criminal cases, including cases of children ages 13-15 who are charged in adult court with certain enumerated crimes, and children ages 16 and older who, when charged with any criminal act, are accused and tried, and may be jailed or imprisoned, along with adults in the adult criminal justice system. The Civil Practice provides comprehensive legal assistance for families and individuals in 30,000 matters annually, involving a broad range of legal problems related to poverty. Legal Aid also provides appeals and law reform representation within each practice area.

Our perspective comes from our daily contacts with children and their families, and also from our frequent interactions with the courts, social service providers, City agencies including the New

York Police Department, Department of Education, Department of Juvenile Justice, Department of Probation, and Administration for Children's Services; and the New York State Education Department, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, and Office of Children and Family Services ("OCFS")

Background

At the Council's recent hearing on Alternatives to Detention on September 26, 2007, Legal Aid testified that New York has created a juvenile justice system in which primarily low-income children of color are arrested and prosecuted, often to the fullest extent, in Family Court for what frequently amounts to normative teen behavior or in legal terms, misdemeanors¹. Graffiti, talking back to an officer, and minor school conflicts are not dealt with through counseling, mediation, and the engagement of families, as they are for middle and upper class families. Instead, minor incidents are blown far out of proportion - often with devastating consequences for children and their families. This creates a harsh and punitive environment which now pervades many of the public schools, particularly those in the city's most under-served neighborhoods.

The large majority of young people detained by the Family Courts, for example, are accused of delinquent behavior involving nonviolent, misdemeanor offenses. While juvenile arrests and detention usage in New York City increased in 2006 as compared to 2005, the largest increases were in misdemeanor arrests (11% increase) and usage of non-secure detention (NSD) group homes (11%

¹Although the New York City Department of Juvenile Justice no longer posts statistics related to race on its website, almost the entire detention population consistently has been composed of youth of color -- approximately 60% of those detained pre-trial are African-American and 37% are Latino.

increase)². As we have testified before, the overuse of detention comes at great financial and human cost to the City. The 2007 Mayor's Management Report indicates that the cost of detaining a child in New York City is now \$551 per day³ (\$201,115 per year). A recent policy brief released by the national Justice Policy Institute (JPI) showed the harm caused by the unnecessary over-incarceration of children. Significantly, the report highlights the known fact that detained youth face barriers in returning to school and in the long run experience reduced success in the labor market.⁴

The Effect of Police in Our Schools

In many ways, the enormous police presence in the public schools in the form of over 5000 School Safety Agents has been counterproductive. The Legal Aid Society strongly supports creating a safe learning environment for the children of New York City, but it has been our experience that, instead of enhancing safety, the presence of SSAs can undermine the quality of education and the well-being of students and school staff. We recognize that many schools have long histories of disruption and danger which need to be addressed. However, the addition of law enforcement officers should not be the primary or sole response to these issues. Several recent studies of the Impact Schools concluded that the schools in which the most police officers were placed, as compared to schools in the rest of the city, had higher enrollments even as city high schools saw less

²Data provided on March 12, 2007 to the Legal Aid Society by the NYC Mayor's Office of the Criminal Justice Coordinator.

³ FY 2007 Mayor's Management Report, http://www.nyc.gov/html/ops/downloads/pdf/_mmr/djj.pdf.

⁴Justice Policy Institute (Holman & Ziedenberg), *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and other Secure Facilities*, November 2006.

crowded conditions, higher percentages of poor and African-American students, lower average spending for direct services per student, more students over-age for their grade, higher rates of suspensions, higher rates of reported police incidents and lower rates of attendance.⁵

We recognize and applaud the efforts of the New York City Department of Education in creating more small schools to alleviate the issues of the larger schools. However, those students who are left behind in the large high schools should be entitled to receive equivalent educational services in environments which foster learning. Students in large high schools should not be delivered the message that their only option for an education is available in a building that feels like a police state. School officials often relate to us that they feel that school discipline and safety issues have been taken out of their control. They are concerned about the loss of control over what happens with their own students. We, as a city, are losing opportunities for teaching lessons of social interaction, conflict resolution, conflict de-escalation that are inherently part of every young person's social education. These skills were historically taught by educational staff. Now, that function has been abdicated to a law enforcement body which does not coordinate its goals and expected outcomes with the educational organization in which it is housed.

The permanent and roving metal detectors now operating in many schools reflect the law enforcement culture which treats students walking into their schoolhouses as criminal suspects instead of as children who have a right to an education. This current perspective on school safety responds to minor disputes or misunderstandings as criminal activity, triggering an often unnecessary

⁵Drum Major Institute, *A Look at the Impact Schools*, June 2005; National Center for Schools and Communities, Fordham University, *Policing as Education Policy: A briefing on the initial impact of the Impact Schools program*, August, 2006.

escalation of consequences beginning with an arrest followed by school suspension, criminal prosecution and possible incarceration.

If teachers or school staff were overseeing school discipline, a dispute among children, a misunderstanding, or some minor misbehavior could be taken as an opportunity to learn new behaviors or skills in conflict resolution. In the current environment where law enforcement controls school safety, minor disputes or misbehavior most often result in harsh punishment instead of counseling or mediation. An environment where law enforcement interdiction is the norm, creates profound obstacles for children seeking to obtain a quality public school education. Additionally, many of our clients are classified in need of special education services for identified emotional disabilities and mental illness, are often targeted by school safety officers as “criminals” when they are actually young people with very troubled social histories, many of whom are in treatment, on medication and supervised by mental health professionals. Due to their family histories of trauma, these young people often respond inappropriately to authority figures and situations arise where the SSAs escalate incidents that could have been resolved or mitigated by an educator or counselor with knowledge of the child’s background and who is trained to work with young people with emotional disturbances.

Even if a child is found not guilty after going through a school suspension hearing and a delinquency prosecution in Family Court or criminal prosecution, s/he is often punished academically during the process of responding to the charges. The disruption of a young person’s education, even for one or two weeks, can result in the loss of an entire semester’s work and cause students to be held back in their grade. Students are rarely, if ever, provided with their homework and classwork pending the outcome of a suspension hearing, for example, despite the New York

City Schools Chancellor's Regulations stating clearly that suspended students must not be penalized academically.⁶ Under the City's current school safety model, the consequences for students who are suspended and prosecuted as adults or juveniles also feature the loss of opportunity to take required exams and standardized tests, and for some, being required to attend summer school or repeat the entire year instead of being promoted to the next grade. It is well known that students who are over age for their grade are more likely to end up dropping out of school without attaining a diploma.

The Legal Aid Society represents many children each year who are arrested and suspended because of incidents involving School Safety Agents. Many of these incidents simply would not have occurred, or certainly would not have escalated, if trained school personnel rather than police were charged with overseeing student discipline. The vast majority of the information we have received from children, parents and teachers indicates that School Safety Agents are poorly trained in how to work with adolescents, and inadequately supervised. We have never been able to see the training protocol of the SSAs. It is unclear whether the Department of Education had any input or has seen the training protocol as well. We suggest that the City Council obtain a copy of the training protocol used by the NYPD in training school safety agents. Based on numerous examples in which we have represented children, we conclude that School Safety Agents often create more problems than they prevent. Making matters worse, there is no adequate forum in which students and their families may seek redress for the misconduct of School Safety Agents.

Following are just a few examples of what has happened recently to the children with whom we work. These examples are just a snapshot of a broader, unacceptable environment which has

⁶Chancellor's Regulation §A-443 III.B(1)(a).

been created in too many of the schools in New York City:

- A.P is a 12-year-old, 6th grade student in general education who skipped his art class one day because he was frustrated by how overcrowded and chaotic that class was. He was approached in the hallway by an SSA who immediately pushed A.P. upon seeing him and demanded to see his I.D. A.P. gave the SSA his I.D. and the SSA became verbally abusive and cursed at and insulted A.P.. A second SSA took A.P. by the arm and led him to the Dean's office, as the first SSA followed behind, taunting and threatening A.P.. A.P. objected to the SSA's insulting remarks and was told by the SSA to "shut up," and then the SSA dared A.P. to hit him. A.P. tried to push that SSA away from him, and the SSA hit A.P. in the face and then in the chest. A.P. was arrested and suspended. A.P. received a very short suspension, and based on the facts shown at trial, the Family Court judge dismissed the assault case against A.P..
- R.G. is a 13-year-old boy in the 6th grade in Special Education, classified as emotionally disturbed. A School Safety Agent approached him and accused him of spitting in the hallway. R.G. said that he did not spit in the hallway. The SSA responded by slamming R.G. up against a wall, throwing him to the floor and handcuffing him. R.G. was suspended and arrested for assault. A few days after the suspension hearing was held, the SSA spotted R.G. in a grocery store in the neighborhood. The SSA grabbed R.G. by his shirt, choked him, slammed him onto a counter and then slammed him onto the floor. R.G. escaped without his shirt and ran home. His parents took him to the emergency room and made a police complaint. The parents also reported the attack by the SSA to the DOE's Office of Special Investigations. As a result of the investigation by OSI, the SSA was suspended for 30 days.
- L.A. was in general education at a large high school in Brooklyn. Late in the afternoon she was feeling ill and wanted to go home one period before the end of the day. As she was trying to exit the school, a SSA blocked her from leaving by putting her arm across the door. The SSA then put her arm down and turned to speak with another student. At that time, L.A. thought that it was alright for her to leave. As she moved through the doorway, however, the SSA slammed L.A. with her body into the door frame so hard that she had trouble breathing. The SSA then grabbed L.A., who struggled to get out of the SSA's grasp. During the struggle, L.A. hit the SSA. L.A. was arrested, charged with assault and suspended from school.
- We also represent G.B., a 15-year-old girl, who walked past an argument between two students in the hallway of her school. SSAs intervened in the argument and took one of the arguing students away. As the other students in the hallway walked or ran away, a female SSA grabbed the friend who had been walking with G.B. When G.B. told the SSA that her friend had not been involved in the argument, the SSA told G.B., "Move the f**k away

before I slap the sh** out of you." The SSA then dared G.B. to hit her, and G.B. refused. The SSA grabbed G.B. from behind, and the front of G.B.'s shirt came open, revealing her breasts. After G.B. was handcuffed, another student came forward and buttoned the shirt. G.B. was given a 5-day principal's suspension and was arrested for obstruction of governmental administration and resisting arrest. Again, after a trial, the judge dismissed the court case against G.B. due to facial insufficiency of the charges.

- We represent a high school student who was coming in from gym when he was stopped by the SSA who thought he was skipping class. The student tried to tell the SSA that he was in the class and when the SSA didn't believe him he told him to leave the school. The student refused. The SSA became upset and started to manhandle our client. The SSA punched the student several times. Our client is the one who ended up with felony assault charges in the adult Criminal Court system. It is our information that this particular SSA has had similar problems in the past and apparently has been retrained and reassigned.

Legal Aid has many other examples that illustrate inappropriate behavior by SSAs. We know that the Council members will hear additional stories today from other concerned citizens and some of the students themselves who have been victimized by SSAs and the policies and practices of the current school safety program. *What bears highlighting in the examples we have included in this testimony is that students are being approached for no reason or the behaviors for which children are confronted -- skipping a class, allegedly spitting in the hallway, leaving school one period early, and speaking up on behalf of a friend -- are all common among schoolchildren and are by no means violent or immediately dangerous behaviors.* In the examples, SSAs reacted with unacceptable aggression and without empathy in situations that, with properly trained school personnel, could have been resolved productively without the use of physical force and without resulting in the extreme punishments of suspension and criminal prosecution.

We join with the community of parents, students, teachers and advocates in urging the

City Council to restore authority over school safety to school administrators, and to require accountability from our schools and from the police regarding school safety. We join with those seeking new legislation to expand the jurisdiction of the Civilian Complaint Review Board to hear cases involving alleged misconduct by School Safety Agents and requiring detailed quarterly reporting to the City Council about the school safety program in the public schools. We are encouraged that the City Council is holding this hearing. Without meaningful oversight and action by the Council, the current crisis related to the over-policing of our school children will only persist.

Thank you for the opportunity to speak on this important topic.

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