

October 6, 2016

The Honorable Andrew Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo,

On October 15th you have the opportunity to ensure that young people involved in the criminal justice system in New York are kept safe from harm by certifying New York's effective implementation of the Prison Rape Elimination Act (PREA) to the Department of Justice. We call on you to make New York a leader in PREA compliance by adopting best practices with respect to the treatment of youth in the adult criminal justice system by implementing the Youthful Inmate Standard in all adult facilities,¹ preferably by removing all youth under the age of 18 from adult jails and prisons.

Passed unanimously by Congress in 2003, PREA restricts the placement of youth in adult jails and prisons. Regulations approved by the U.S. Department of Justice state that "as a matter of policy, the Department support(s) strong limitations on the confinement of adults with juveniles." Compliance with the Youthful Inmate Standard of the law calls on states to limit contact between youth and adults in adult facilities by banning the housing of youth in the general adult population, prohibiting contact between youth and adults in common areas, and ensuring youth are constantly supervised by staff. States must also limit the use of isolation which causes or exacerbates mental health problems for youth.

Research shows that youth are not safe in adult jails and prisons and are at the greatest risk of sexual victimization. According to research by the Bureau of Justice Statistics, of the youthful inmates aged 16 and 17 that reported sexual abuse, an estimated 78.6% reported experiencing physical force or threat of force and 65.5% reported being victimized more than once.² The National Prison Rape Elimination Commission found that "more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse."³

Stakeholders from across the country have weighed in to support the full implementation of PREA, including removing children from adult jails and prisons. All of the major national stakeholder

¹ In PREA, a youthful inmate is defined as "any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail." The standard requires three things: (1) youthful inmates are placed in a housing unit where they will not have contact with any adult inmates through the use of shared day rooms or common spaces, (2) outside of housing units, agencies must either maintain sight and sound separation between youthful inmates and adults or provide direct staff supervision when they are together, and (3) agencies must make their best effort to avoid placing youthful inmates in isolation to comply with the provision.

² Beck, A. (2013). Sexual Victimization in Prisons and Jails Reported by Inmates, 23, 2011-12. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. <http://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>

³ United States. (2009). National Prison Rape Elimination Commission Report. Washington, DC: National Prison Rape Elimination Commission.

associations that deal with juvenile or adult detention or corrections, including the American Correctional Association⁴, Council of Juvenile Correctional Administrators⁵, National Juvenile Detention Association⁶, and the American Jail Association⁷ have policies that strongly back this recommendation.

And, the public agrees. Public opinion polling shows that a majority of Americans reject placement of youth in adult jails and prisons and strongly favors rehabilitation and treatment approaches, such as counseling, education, treatment, restitution, and community service.⁸

All youth must be removed from adult jails and prisons to fully comply with PREA and protect youth from sexual assault. Because New York's juvenile court jurisdiction ends at 15, New York's 16 and 17 year olds are more vulnerable than other youth across the country. Your recent executive order to remove all female youth and those male youth in minimum and medium security facilities from adult prisons, as well as your effort to raise the age are important and promising steps toward protecting youth. We support these efforts and encourage you to continue to push for both raise the age and the removal of all youth under 18 from adult jails and adult prisons. With PREA, non-compliance with the youthful inmate standard can lead to difficult and dangerous outcomes for youth and ultimately our communities. We encourage your continued leadership on this issue.

Sincerely,

Center for Community Alternatives
Citizens' Committee for Children of New York
Children's Defense Fund- NY
Families Together in New York State
Lawyers for Children, Inc.
NYC Jails Action Coalition
Westchester Children's Association
Youth Represent

⁴ American Correctional Association (2009). Public Correctional Policy on Youthful Offenders Transferred to Adult Criminal Jurisdiction. <http://www.campaignforyouthjustice.org/documents/natlres/ACA%20-%20Public%20Correctional%20Policy%20on%20Youthful%20Offenders.pdf>

⁵ Council of Juvenile Correctional Administrators (2009). Waiver and Transfer of Youths to Adult Systems. <http://www.campaignforyouthjustice.org/documents/CJCA%20Waiver%20and%20Transfer%20%282009%29.pdf>

⁶ National Juvenile Detention Association. (1981). Resolution Opposing the use of Adult Jails for the Detention of Juveniles, <http://www.campaignforyouthjustice.org/documents/natlres/NJDA%20Resolution%20Opposing%20the%20Use%20of%20Adult%20Jails%20for%20the%20Detention%20of%20Juveniles.pdf>

⁷ American Jail Association. (2008). Juveniles in Jails. <http://www.campaignforyouthjustice.org/documents/natlres/AJA%20-%20Juveniles%20in%20Jails.pdf>

⁸ Campaign for Youth Justice. (2012) Keeping Youth Out of Adult Jails & Prisons. http://www.campaignforyouthjustice.org/documents/KYOAJP_102012.pdf