



New York Lawyers for the Public Interest, Inc.
151 W. 30th St.
11th Floor
New York, NY 10001-4017
Tel 212-244-4664
Fax 212-244-4570
TTY 212-244-3692
www.nylpi.org

Testimony of
Ruth Lowenkron, Esq., Director, Disability Justice Program
on behalf of
New York Lawyers for the Public Interest
before the
Council of the City of New York
Committees on Education and Public Safety
Regarding Int. 0003-2022
November 20, 2023

Thank you for the opportunity to present testimony on behalf of New York Lawyers for the Public Interest (NYLPI) regarding Int. 0003-2022.

NYLPI urges the City Council to ensure that the City 1) ceases responding to students in emotional crisis with police or other “school safety personnel,” and 2) provides these vulnerable students with the support they need and which is mandated by federal, state, and local law. While NYLPI supports Int. No. 0003-2022, which seeks to regulate responses to students in emotional crisis in public schools, it must

be significantly amended to ensure that the wellbeing and rights of students are safeguarded.

Incredibly, the New York Police Department (NYPD) utilizes the same procedures – including handcuffing -- for responding to students in emotional crisis as it does for arresting students suspected of having engaged in criminal activities.¹ Under what best practice, let alone ethical canon, do we contemplate handcuffing students who are experiencing a health crisis?

Students who are handcuffed or otherwise restrained are then removed from the classroom and transported to a psychiatric hospital, which also violates best practices, ethical principles, state and federal Due Process provisions and the specific mandate of the Individuals with Disabilities Education Act, which promises children with disabilities an education in the *least restrictive environment*.²

Only those who are trained in de-escalation practices should respond to a mental health crisis, and the most appropriate individuals to receive such training are peers (those with lived mental health experience) and health care providers.³ Police, who are trained to uphold law and order are not suited to deal with individuals

¹ NYPD Patrol Guide Procedure No. 215-13, “Handcuffing/Restraining Students Within School Facilities for Arrest or As An Emotionally Disturbed Person and Use of Alternative Restraints/Velcro Cuffs,” https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide3.pdf.

² 20 U.S.C. § 1412 (a)(5).

³ Martha Williams Deane, *et al.*, “Emerging Partnerships between Mental Health and Law Enforcement,” Psychiatric Services (1999).

experiencing mental health crises, and New York City's history of its police killing 19 individuals who were experiencing crises in the last eight years alone, is sad testament to that. Notably, eliminating police as mental health crisis responders has been shown to result in quicker recovery from crises, greater connections with long-term healthcare services and other community resources, and averting future crises⁴. The scores of people experiencing mental health crises who have died at the hands of the police over the years is a microcosm of the police brutality around the world. Disability is disproportionately prevalent in the Black community and other communities of color⁵, and individuals who are shot and killed by the police when experiencing mental health crises are disproportionately Black and other people of color. Of the nineteen individuals killed by police in the last eight years, sixteen – or more than 80% -- were Black or other people of color.

Authorizing police – and other “school safety personnel” -- to respond to mental health crises in schools is particularly pernicious. Police are not health professionals and they cannot aid students with mental health needs. Not only are police ill-equipped for this role, but their interventions actually negatively affect

⁴ Henry J. Steadman, *et al.*, “A Specialized Crisis Response Site as a Core Element of Police-Based Diversion Programs,” Psychiatric Services (2001).

⁵ Mayor's Office for People with Disabilities, “Accessible NYC” (2016).

adolescent mental health, heightening emotional and psychological distress and resulting in feelings of social stigma.⁶

Moreover, there is no evidence showing that police make schools safer, while there is overwhelming evidence that police in schools are harmful to children.⁷ There is also substantial evidence that trauma-informed care, restorative justice practices, mental health support, and positive behavioral intervention strategies in schools are effective ways to improve school climate and culture.⁸

Int. No 0003-2022 is an important step toward ensuring students experiencing mental health crises are provided a trauma-informed and healing response, not with law enforcement and handcuffs. This bill has the potential to substantially reduce law enforcement responses to student crises by requiring documentation of steps taken to de-escalate incidents, emphasizing that the schools' clinical staff must be the first responders to students experiencing mental health crises, and mandating that determinations about transporting students to hospitals for mental health evaluations be made solely by clinically trained mental health professionals. Int. 0003-2022, however, must be significantly amended and strengthened as follows:

⁶ See, e.g., Dylan B. Jackson et al., *Police Stops Among At-Risk Youth: Repercussions for Mental Health*, 65 J. of Adolescent Health 5 (2019), <https://doi.org/10.1016/j.jadohealth.2019.05.027>.

⁷ See, e.g., The Bazelon Center for Mental Health Law, *Replacing School Police with Services that Work* (August 2021), <http://www.bazelon.org/wp-content/uploads/2021/08/Replacing-Police-in-Schools.pdf>; The Sentencing Project, *Back-to-School Action Guide: Re-Engaging Students and Closing the School-to-Prison Pipeline* (August 2021), <https://www.sentencingproject.org/reports/back-to-school-action-guide-re-engaging-students-and-closing-the-school-to-prison-pipeline/>; ACLU of California, *No Police in Schools: A Vision for Safe and Supportive Schools in California* (August 2021), <https://www.aclusocal.org/en/no-police-in-schools>.

⁸ *Id.*

- **Establishing an alternative to School Safety Personnel as responders to mental health crises that consists of a peer and an Emergency Medical Technician (EMT) who receive trauma-informed, experiential training, in keeping with “Daniel’s Law” (A.2210/S.2398) and in keeping with the goals of -- if not, unfortunately, the implementation of -- the City’s Behavioral Health Emergency Assistance Response Division (B-HEARD) pilot;**⁹
- **Limiting School Safety Personnel crisis responses to those circumstances where the student poses a substantial risk of physical harm to others as manifested by violent behavior by which others are placed in reasonable fear of imminent serious physical harm – which also comports with Daniel’s Law -- and eliminating entirely the role of Precinct Officers as responders;**
- **Eliminating entirely the use of handcuffs and “other mechanical restraints” on students experiencing mental health crises and ensuring that all other means of attempting to restrain students are implemented in the least invasive/restrictive manner possible and**

⁹ NYC Mayor’s Office of Community Mental Health, *Re-imagining New York City's mental health emergency response: A new health-centered approach to mental health emergencies*, <https://mentalhealth.cityofnewyork.us/b-heard>, (“For the first time in New York City's history, teams of health professionals - including EMTs[Emergency Medical Technicians]/paramedics and mental health professionals - are responding to 911 mental health calls through a pilot program that launched in spring 2021”).

are conducted only by properly trained staff and in accordance with the student’s behavioral intervention plan if one exists;

- **Revising the definition of “de-escalation techniques” to include the mandate that all techniques are *trauma-informed* and *research-based*;**
- **Mandating comprehensive mental health and social-emotional support**, which promote well-being and equity for all students and school staff;
- **Mandating the expansion of schoolwide Restorative Justice Practices**, which address students’ underlying needs, teach critical life skills, build and heal relationships, and keep students in the classroom where they belong;
- **Ensuring funding for the Mental Health Continuum**, which makes mental healthcare available through school and New York City Health and Hospitals (H+H) clinic partnerships;
- **Ensuring funding for additional school-based social workers citywide** to address the current dearth;¹⁰

¹⁰ See Office of the NYS Comptroller, Press Release, “DiNapoli: NYC Department of Education Must Do More to Combat Mental Health Crisis Among Youth,” *Many Schools Have Far Less Than the Recommended Number of Mental Health Professionals on Staff* (August 18, 2022), <https://www.osc.state.ny.us/press/releases/2022/08/dinapoli-nyc-department-education-must-do-more-combatmental-health-crisis-among-youth>; NYS Comptroller Thomas D. DiNapoli, *Mental Health Education, Supports, and Services in Schools*, NYC DOE, Report 2020-N7, (August 2022), <https://www.osc.state.ny.us/files/stateagencies/audits/pdf/sga-2022-20n7.pdf>.

- **Ensuring funding for other evidence-based approaches to address students’ mental health needs**, such as the trauma-informed, evidence-based Collaborative Problem Solving and Collaborative and Proactive Solutions (“CPS”) program,¹¹ which has been used in NYC schools and other schools around the world with notable success;¹² and
- **Shifting funding from the NYPD to the DOE** to provide mental health and social-emotional support for students.

Children with mental disabilities are among our most vulnerable citizens and we must act with all speed to provide them with necessary services and uphold their civil rights.

Thank you for the opportunity to provide testimony on this important matter, and I look forward to working with you to amend Int. 0003-2022.

###

About New York Lawyers for the Public Interest

For nearly 50 years, New York Lawyers for the Public Interest (NYLPI) has been a leading civil rights advocate for New Yorkers marginalized by race, poverty, disability, and immigration status. Through our community lawyering model, we bridge the gap between traditional civil legal services and civil rights, building strength and capacity for both individual solutions and long-term impact. Our work integrates the power of individual representation, impact litigation, and comprehensive organizing and policy

¹¹ See Think:Kids, *Collaborative Problem Solving*, <https://thinkkids.org/> and Lives in the Balance, *Collaborative & Proactive Solutions*, <https://livesinthebalance.org/our-solution/>.

¹² *Id.*

campaigns. Guided by the priorities of our communities, we strive to achieve equality of opportunity and self-determination for people with disabilities, create equal access to health care, ensure immigrant opportunity, strengthen local nonprofits, and secure environmental justice for low-income communities of color.

NYLPI's Disability Justice Program works to advance the civil rights of New Yorkers with disabilities. In the past five years alone, NYLPI disability advocates have represented thousands of individuals and won campaigns improving the lives of hundreds of thousands of New Yorkers. Our landmark victories include integration into the community for people with mental illness, access to medical care and government services, increased accessibility of New York City's public hospitals, and attainment of appropriate educations for countless students with disabilities. We prioritize the reform of New York City's response to individuals experiencing mental health crises. We have successfully litigated to obtain the body-worn camera footage from the NYPD officers who shot and killed individuals experiencing mental health crises. In late 2021, NYLPI and co-counsel filed a class action lawsuit which seeks to halt New York's practice of dispatching police to respond to mental health crises, and in the context of that lawsuit, seeks relief on behalf of individuals affected by the Mayor's Involuntary Removal Policy. Our advocacy in the area of education for students with disabilities focuses on vindicating the rights of students classified as having an emotional disability who receive stigmatizing and inadequate services.