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**\*\*\*FOR IMMEDIATE RELEASE\*\*\***

***Legal Aid Unveils 2020 NYS Black Youth Justice Agenda***

***Platform Includes Legislation To End The Arrest and Prosecution Of Children Under The Age Of 12; Require Consultation with Counsel Before a Child May be Interrogated By Law Enforcement; and Protect New Yorkers' Genetic Privacy***

(New York, NY) – **The Legal Aid Society** today unveiled its 2020 New York State Black Youth Justice Agenda, which seeks to ensure that the rights and safety of children across the state are protected. The 2020 legislative platform calls on the State Legislature and Governor Andrew Cuomo to pass and enact three key bills to end the arrest and prosecution of children under the age of 12 (S8685/A10727), prohibit interrogation of children by law enforcement unless they have consulted with counsel (S4980B/A6982B), and end unauthorized DNA data indexes (S6009/A7818).

“Amid the nation’s moment of reckoning around racism and the disparate treatment of Black and brown communities, New York must take action to protect our most vulnerable children and ensure that they are treated as children and not unjustly funneled into the prison pipelines that have historically ravaged communities of color,” said **Dawne Mitchell, Attorney-in-Charge of the Juvenile Rights Practice at The Legal Aid Society**. “We urge the Governor and State legislature to stand up for children and ensure equal justice for all youth across New York.”

**Ending The Arrest and Prosecution Of Children Under The Age Of 12 (S8685/A10727):**

In New York, children as young as 7 years old -- yes, first graders -- can be arrested and prosecuted as juvenile delinquents. Children between the ages of 7 and 12 can be handcuffed, transported in police cars, interrogated, detained with older kids, placed on probation or mandated to confinement. Rather than criminalize elementary school children we must instead allow other more appropriate social service systems to address young

children's behavioral needs.

The arrest and prosecution of young children falls disproportionately on children of color. For example, in New York City, more than 90% of children aged 7 to 11 who are arrested are children of color, and **100% of delinquency petitions filed against children aged 7 to 11 are against African American and Latinx children.**

**New York has the second youngest statutory jurisdictional age in the U.S.** The proposed legislation would amend the Family Court Act and Social Services Law to raise the lower age of jurisdiction for juvenile delinquency proceedings in Family Court from 7 to 12, and would prevent detention of youth under age 13 in secure facilities. According to [studies](#), ending juvenile delinquency prosecutions for elementary school aged children under 12 will help reduce the impact of the school to prison pipeline, address long overdue racial disparities in the legal systems, reduce the harmful impact of incarceration, and promote a more age-appropriate response to young children's behavioral needs.

#### **Prohibiting Interrogation of a Child By Law Enforcement Until Counsel Has Been Provided To The Child (S4980B/A6982B):**

New York State law fails to protect the rights of the children when police seek to interrogate them, and the result can be devastating, as highlighted in the Netflix series "When They see Us" – a dramatization of the prosecution of five innocent teens for a crime they did not commit. Under current New York law, police are allowed to interrogate a child without a parent present; they can lie to a child in order to induce him or her to waive their right to remain silent; police are not required to allow a child to meet and talk with their parent or guardian before the police read the child their Miranda rights; nor are they required to explain to the child and their parent or guardian what it is the police want to question the child about; among other serious harms.

**Ninety percent of youth waive their Miranda rights.** Thirty years of scientific research reveals that even under controlled circumstances, children lack the capacity to fully appreciate the meaning and significance of the right to remain silent or the almost certain repercussions of waiving that right. The burden of these coercive interrogation tactics falls disproportionately on Black and brown children from policed schools and criminalized communities. For example, in NYC, 95% of the youth held in detention are Black or Hispanic. Indeed, children of privilege are virtually guaranteed to have a lawyer prior to questioning, who invokes their client's right to remain silent. The disparate impact of this practice is overwhelming, with at times life-altering consequences.

The proposed legislation would provide the needed protection. Current law provides that police may interrogate a child when it is necessary. This bill would clarify that interrogation of a child is necessary when the safety of the subject child or another person is in danger. When police determine interrogation is necessary, this bill would require that a youth first consult with counsel before any questioning can take place. Such consultation could take place by telephone, and failure to comply would mean their statement could not be used in court.

#### **Protecting New Yorkers' Genetic Privacy (S6009/A7818):**

New York State authorized the creation of a DNA identification index of convicted persons. Despite this explicit criteria for inclusion in the state DNA index, New York City, Nassau County and possibly other counties have created their own local, unregulated DNA indexes. New York City's DNA identification index currently houses more than 32,000 people including children as young as 12, people who have *never* been convicted of a crime, and young Black and brown boys and men already victimized by policing.

Many people have no idea their DNA is being held in this index because it was collected surreptitiously, and because the index is unregulated, there are no clear mechanisms for getting DNA removed from the index. New York City is intentionally cataloguing the personal genetic information of Black and brown people in a secret DNA Index and the future implications of this are terrifying. The City persists with this shadow DNA index for one reason and one reason only: a perceived loophole in otherwise ironclad State genetic privacy laws that Albany can tighten with the stroke of a pen.

The proposed legislation would clarify that the Legislature, in creating and regulating a State DNA identification index, did not intend for municipalities to secretly and silently create their own unregulated “rogue” DNA indexes.

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*The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. <https://www.legalaidnyc.org>*