

February 4, 2021

Contact:

Redmond Haskins, The Legal Aid Society, (929) 441-2384, [raskins@legal-aid.org](mailto:raskins@legal-aid.org)

Daniel Ball, Brooklyn Defender Services, [dball@bds.org](mailto:dball@bds.org)

Ryan Karerat, The Bronx Defenders, [rkarerat@bronxdefenders.org](mailto:rkarerat@bronxdefenders.org)

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

***In Response to the Pepper Spraying and Handcuffing of a Nine-Year-Old Child in Rochester, Advocates Call on Albany to End the Arrest and Prosecution of Children Under 12 Years Old***

(NEW YORK, NY) – The Legal Aid Society, Brooklyn Defender Services, Bronx Defenders, Queens Defenders and Neighborhood Defenders of Harlem, in [response](#) to the violent pepper spraying and handcuffing of a nine-year-old child by officers of the Rochester Police Department, [called](#) on Governor Andrew Cuomo, Senate Majority Leader Stewart-Cousins, and Assembly Speaker Carl Heastie to enact legislation - the Raise the Lower Age Act (S.4051) - that would raise the minimum age of delinquency jurisdiction from age 7 to 12, ending the arrest and prosecution of children under 12 as delinquents.

New York sets its minimum age for arrest and prosecution of children as juvenile delinquents at age 7, the second lowest age set by statute in the United States. Across New York in 2018 alone, police arrested over 800 elementary school children ages 12 and younger. These children are disproportionately children of color.

Rather than rely on arrests and prosecutions of elementary school-aged children, New York can promote true community safety, and ensure safe access to emergency mental health care for children, by ensuring that its system of local, community-based services is available to families of children whose behavioral needs would otherwise expose them to police and the legal system. The bill would also end the secure detention of children under age 13.

“New York State is one of only a handful of states in which law enforcement can arrest and prosecute children as young as 12-years-old. When an elementary school-aged children engage in problematic behavior, their families need access to services, not prosecution.” said **Dawne Mitchell, Attorney-in-Charge of the Juvenile Rights Practice at The Legal Aid Society**. “To avoid another tragedy like the one that occurred in Rochester this past week, we implore Governor Cuomo, Senate Majority Leader Stewart-Cousins and Assembly Speaker Heastie to enact this critical legislation at once. This is an essential step as New York continues to reform longstanding and ingrained biases in the state’s criminal and juvenile legal systems.”

"The horrifying and heartbreaking police assault on a young Black child in Rochester last week demands meaningful accountability," said **Lisa Salvatore, Supervising Attorney of Brooklyn Defender Services' Adolescent Representation Team**. "This incident is also a painful reminder that New York’s juvenile delinquency law that allows for children as young as seven years old to be arrested and prosecuted are grossly overdue for change. Police violence and the use of court-intervention is disproportionately used against Black and Latinx children. Raise the Lower Age seeks to interrupt the criminalization of young children by ending the criminalization of elementary school aged children and redirecting resources for young children into community-based services that are more developmentally appropriate to serve them. As New York and this country continues its long overdue reckoning with systemic racism, police violence and our criminal legal systems, we must end the criminalization of children.”

“The assault of a 9-year old Black child in Rochester is the vile product of policy failure, police impunity and outright racism,” said **Alice Fontier, Managing Director of Neighborhood Defender Service of Harlem**. “New York has an obligation to address all three. It can start by immediately enacting the Raise the Lower Age legislation, ending its backwards practice of arresting and prosecuting young children, bringing it in line with the rest of the country and restoring a modicum of common sense. Obviously, elementary-schoolers do not belong in handcuffs or behind bars. The reactionary overreliance on badge-and-gun solutions to social issues hurts all New Yorkers and the body cam footage shows just how despicable, dangerous, and hateful it can be.”

"The horrifying assault by police on a young Black child in Rochester was a stark reminder of the disturbing ways that the legal system treats children," said **Gregg Stankewicz, director of the Adolescent Defense Project at The Bronx Defenders**. “We need to end the practice of physically restraining, handcuffing, detaining, and arresting elementary school age children. Lawmakers must pass the Raise the Lower Age Act so that Black and brown kids are afforded the common decency we all deserve."

###

*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. [www.legalaidnyc.org](http://www.legalaidnyc.org)*