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Raising the Age: Why 16- and 17-Year-Olds Don't Belong in New York State's Adult Criminal Justice System

In New York State, 16-year-olds can't vote, can't join the military, and can't buy alcohol or cigarettes. But they are treated as adults in the criminal justice system. It is unsafe and unhealthy to house 16- and 17-year-olds in adult prisons. Youth under the age of 18 should be within the juvenile court's jurisdiction. The juvenile justice system provides rehabilitation for youth, which results in safer communities, while at the same time holding youth accountable for their actions, a key function that is lacking in the adult system. While youth who commit the most egregious crimes should be sentenced and jailed to protect society, most youth in the criminal justice system committed non-violent, misdemeanor offenses. Society and youth would benefit from raising the age of the juvenile courts' jurisdiction to include youth until their 18th birthday. Therefore,

- *The juvenile court should have jurisdiction of youth until their 18th birthday, with the right to transfer a case to the adult system when a serious crime has been committed.*
- *The recommendations in the report by the Governor's Task Force on Transforming Juvenile Justice should be carried out in conjunction with raising the age.*

New York is one of Just Two States that Treats Juveniles as Adults

As early as the 1800s, youth were treated differently and separately from adult offenders. In 1824, New York State defined juveniles as under 16. The practice has not changed.¹

Only New York and North Carolina treat children as young as 16 as adults in the criminal justice system. Most states follow the federal Juvenile Justice Delinquency Prevention Act outline, which suggests juvenile court jurisdiction's upper age limit be "any time before their 18th birthday."² In New York State, anyone 16 or older who commits a crime is sent to the adult criminal justice system, no matter the charge. Despite the fact that 74% of crimes committed by 16- and 17-year-olds in 2009 were misdemeanors, all were dealt with in the adult system.

The difference between the juvenile and adult systems is the philosophy—mainly, rehabilitation versus punishment. This is an important distinction because youth brain development studies show that 16- and 17-year-olds should not be treated as adults.

Current Research Shows that Adolescent Brains Are Not Fully Developed

Adolescent Brain Development

Brain studies indicate that the part of the brain that controls decision-making, planning, setting long-term goals, and risk perception does not fully develop until well after age 18, and adolescents have less ability to weigh consequences. The 2005 Supreme Court case *Roper v. Simmons* recognized and agreed with the concept of diminished criminal responsibility for those under 18 and acknowledged that even youth who commit violent crimes might be rehabilitated.⁴

“While brain development research should not excuse wrongdoing, ignore the legitimate need for rules and laws or free adolescents from discipline and responsibility, brain development research may provide greater understanding of how to most effectively interact with adolescents, especially when they have made serious mistakes.”

—Coalition for Juvenile Justice³

Outcomes

Research has proven that youth housed in adult prisons are confronted with serious obstacles. They face the same penalties as adults, including life without parole. They receive little or no education, mental health treatment, or rehabilitative programming in adult prisons. Additionally, 16- and 17-year-olds acquire an adult criminal record that may significantly limit their future education and employment opportunities.

Sixteen and seventeen year-olds in adult prisons are at greater risk of assault and death. They are also more likely to re-offend than youth not exposed to the negative influences and toxic culture of the adult criminal system.⁵

The juvenile system is better equipped to hold youth accountable for their actions through age appropriate rehabilitation and opportunities to learn from their behavior.

The Numbers Show Most Juveniles Commit Non-Violent and Non-Serious Offenses

Arrests

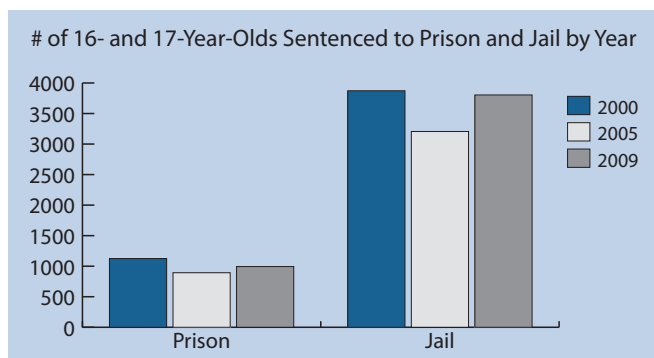
There were 46,351 arrests of 16- and 17-year-olds in New York State in 2009. Of those, 25% were for felonies.

The definition of a **misdemeanor** in New York State is “a specific type of offense for which a person may be sentenced to more than 15 days but not more than one year in jail.”⁶ Some examples are certain types of fraud, larceny under \$1,000, and simple assault. The definition of a **felony** is “an offense for which a sentence to a term of imprisonment in excess of one year may be imposed.” Examples are robbery and homicide.

Both felonies and misdemeanors may be violent or non-violent.

Sentences

The following graph illustrates how many 16- and 17-year-olds were sentenced to various sanctions over a 10 year period—in the years 2000, 2005 and 2009.



Recommendations

1. The juvenile court should have jurisdiction of youth until their 18th birthday, with the right to transfer a case to the adult system when a serious crime has been committed.

Raising the age of the juvenile courts' oversight to include youth until their 18th birthday will benefit juvenile offenders as well as society. Youth who are in the adult prison system offend at a higher rate upon release, offend sooner, and commit more serious crimes than their

counterparts in the juvenile justice system. The juvenile system provides mental health and rehabilitative services, which are not available in the adult system. However, certain serious offenses should not be taken lightly and may warrant punitive action.

2. The recommendations in the report by the Governor's Task Force on Transforming Juvenile Justice should be carried out in conjunction with raising the age. New York State should:

- Reduce the use of institutional placement, downsize or close underutilized facilities, and reinvest in communities.
- Develop and expand community-based alternatives to institutional placement.
- Support and invest in staff.
- Limit the amount of time youth spend in institutional settings.
- Place youth close to home.

Juvenile justice reforms currently underway in New York State assist both the youth and the public. Raising the age of the juvenile court's jurisdiction is another positive step toward improved outcomes for youths and communities. These reforms should work in collaboration with one another to achieve the best possible juvenile justice system for New York's youth.

Conclusion

New York State is one of only two states that has not raised the age of the juvenile courts' jurisdiction. Research demonstrates that the adult system is not appropriate for 16- and 17-year-olds who are still developing cognitively. These youth and the public are better served by raising the age of the juvenile courts' jurisdiction to include youth until their 18th birthday.

Endnotes

¹ Strategic Planning & Policy Development. (2007). *Reconsidering the age of juvenile delinquency*

² (2010). *Raise the age to 18*. Citizens Crime Commission of New York City. <http://www.nycrimecommission.org>

³ *What are the Implications of Adolescent Brain Development for Juvenile Justice?* Retrieved from <http://www.criminaljusticecoalition.org>

⁴ Strategic Planning & Policy Development. (2007). *Reconsidering the age of juvenile delinquency*

⁵ JJDDPA Fact Sheet. *Act 4 Juvenile Justice*. Retrieved from <http://www.act4jj.org>

⁶ New York State Unified Court System. Retrieved from <http://www.courts.state.ny.us>