

Raise the Age of Criminal Responsibility in New York State

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Despite its progressive reputation, New York remains one of only two states in the nation that continues to automatically arrest and prosecute 16 year olds as adults. It's an archaic system, proven to be ineffective, and in direct conflict with scientific evidence and cost benefit analysis. It is time to reform New York State's juvenile justice system by raising the age of criminal responsibility from 16 to 18.

While opponents of reform worry that raising the age of criminal responsibility is a "get out of jail free" card and promotes a culture of leniency regarding juvenile criminals, advocates suggest such an assumption reflects one of the two biggest misconceptions regarding the types of crimes generally committed by youth and the recommended reforms.

First and foremost, a review of the Division of Criminal Justice Services (DCJS) arrest data shows that the majority of crimes committed by teenagers are not the violent, headline grabbing crimes that all too often drive policy but instead, are nonviolent offenses that do not pose a substantial threat to public safety.(1)

In addition, advocates recognize that children who are charged with committing violent offenses should be held accountable for their actions and face different consequences than children who are charged with nonviolent offenses. But, they contend, court processes, services offered, and placement options should be developmentally appropriate.

Understandably, many people are angered by the thought that kids who commit crimes could get a break and get the services they need to turn their lives around when the victims can be scarred forever. This is a very important concern. Victims of violence deserve far more help than they get from our society. But that's a separate matter. Treating children who commit crimes as adults will not help the victims.

Given the strong scientific evidence that children are not adults and should not be treated as such, it is clearly time to change the structure of our current system.

Research shows us that treating children as adults limits the possibility that they will be able to turn their lives around and results in far greater social and financial costs than does a juvenile justice system built on a sound understanding of human development. Rehabilitating just one high-risk delinquent teen away from a life of crime saves could save society \$3 million to \$6 million in costs to victims and in government expenses. It also results in increased wages and tax payments over the young person's lifetime.(2)

We also know that incarcerating teenagers in an adult facility where they often become sexual prey to much older and more violent criminals has devastating psychological consequences. Consider Daniel, whose grandmother has been speaking out about the injustice he suffered. Daniel was charged with a felony offense (despite the fact that there was no weapon brandished or even suggested) for stealing Chinese food out of a delivery car. He was arrested, prosecuted, and eventually incarcerated in an adult facility...where he was sexually assaulted by an adult inmate. He has since been released but suffers from severe and debilitating Post-Traumatic Stress Disorder. Had our juvenile justice system mirrored that of other states, his life course could have been drastically different. Perhaps he would be nearing the end of college and about to embark on a path to productive citizenship.

Daniel is not an isolated example. The MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice examined juvenile offender cohorts in New Jersey and New York City. When comparing youth arrested for the same felony offenses, data showed that "adolescents processed in the New York adult courts were more likely to be rearrested, to be re-arrested more often and more quickly, to commit more serious offenses, and to be re-incarcerated at higher rates than those in the New Jersey juvenile courts".(3)

NY's tough on crime approach fails to make our streets safer. In New Jersey, where 16- and 17- year -olds are processed through family court and judges have an array of support services to offer the juvenile offender, rehabilitation is a much more likely result. Juveniles who in New York would have been saddled with a felony offense on their record, forever precluding them from accessing student loans and many employment opportunities, get a chance to do well in New Jersey. And overwhelmingly they take advantage of the break they get to become productive members of society.(4)

Reform should result in a policy that strikes a balance between punishment and rehabilitation.

In New York state, two bills have been introduced. One is a broad initiative that: (1) raises the age of criminal responsibility for all juvenile offenders and all offenses, (2) expands the juvenile offender status and shifts their cases away from criminal court and into family court where judges have more tools for diversion, and (3) calls for community service when appropriate.

The other bill focuses on only non-violent offenses. Instead of criminal court, it creates a hybrid court between criminal and family court, provides for diversion, and seals records if offender meets the terms of their community service and or "probationary" terms.

In addition, the Governor recently identified raising the age of criminal responsibility as a priority for his administration. He has formed a Commission charged with examining the issue, engaging stakeholders, and crafting recommendations for bill language that strikes a balance of all concerned.

As this process unfolds, there will undoubtedly be a debate about whether to have comprehensive change that assures that all youth are treated age appropriately regardless of their crime or to have more limited change that treats the few kids who commit violent crimes differently than the majority who do not.

Can advocates of reform and their opponents find a balance that protects our communities while also giving hope to kids who deserve a break? Enough is known to do it, as 48 other states already have. New York ought to be able to do it, too.

References

(1) [Criminal Justice Case Processing of 16-17 Year Olds](#), Prepared by The New York State Division of Criminal Justice Services; Office of Justice Research and Performance, January 4, 2013.

(2) Cohen, Mark A., and Piquero, Alex R. "[New Evidence on the Monetary Value of Saving a High Risk Youth](#)". Journal of Quantitative Criminology, 2009.

(3) MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice. "Issue Brief #5: [The Changing Borders of Juvenile Justice](#): Transfer of Adolescents to the Adult Criminal Court".

(4) National Campaign to Reform State Juvenile Justice Systems. "[The Fourth Wave: Juvenile Justice Reforms for the Twenty -First Century](#)".