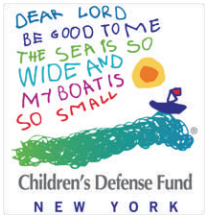


JUSTICE FOR ALL YOUTH: RAISING THE AGE IN NEW YORK



The creation of juvenile and family courts offered states the ability to hold youth accountable for their actions, provide age-appropriate rehabilitative services, and protect children from the dangers of incarceration with adults. While most of these courts initially maintained jurisdiction over a child until he or she turned sixteen many eventually raised the court's age of jurisdiction to eighteen and provided legal mechanisms to waive children committing more egregious crimes into the adult system.¹ Only two states continue to charge 16 year-olds automatically as adults— New York and North Carolina – despite the known consequences of such practices. In the past few years New York State and many of its localities have implemented far-reaching and progressive juvenile justice reforms, focused on age-appropriate therapeutic interventions and community-based programs that decrease recidivism and thus increase community safety. However, none of these juvenile justice reforms affect the more than 47,000 16 and 17 year-olds who were arrested as adults in 2009.

Disproportionate Minority Contact

The risks and consequences associated with trying adolescents as adults fall most heavily on New York's communities of color. Youth of color are over-represented at all decision-points in the juvenile and criminal justice systems. In New York City, youth of color (primarily Black and Latino) make up 95 percent of the youth in the city's detention facilities.² The demographics of adolescents tried in adult jails and prisons is not known, but the over-representation of youth of color at the earliest stages of system involvement point to overwhelming disparities in the adult system as well.

Risks of Incarceration³

In 2007, the Campaign for Youth Justice (CYJ) released a national report detailing the risks of incarcerating youth in adult jails. Youth in New York's system face the same risks.

- **DISPROPORTIONATE RATES OF SEXUAL VICTIMIZATION:** A national study found that in 2005 and 2006, juveniles constituted just one percent of jail populations. However, in 2005 they were 21 percent of those subject to inmate-on-inmate sexual violence. In 2006, 13 percent were victims of sexual abuse.
- **INCREASED INCIDENCES OF SUICIDE:** When compared to their counterparts in the general population, adolescents in jail are 19 times more likely to commit suicide. Comparisons between youth in juvenile facilities and youth in adult jails show that the latter are 36 times more likely to commit suicide.
- **INCREASED CRIMINAL SOPHISTICATION:** Holding youth with adults provides more opportunities for youth to pattern themselves after adults who have more sophisticated criminal skills. It also forces them to adapt to environments with heightened rates of violence.

Collateral Consequences

Automatically trying youth and adolescents as adults can have significant long-term consequences.

- **LIMITING EMPLOYMENT AND EDUCATION OPPORTUNITIES:** Unlike their counterparts processed in the juvenile system, youth with unsealed adolescent arrests and convictions must disclose this information on job applications. In addition, public and private colleges in the US have varying policies on disclosure of convictions and how arrests and convictions can effect a student's application. For example, the State University of New York application requires that students with an *adult* felony conviction supply additional information that convinces the school that they are not a threat to public safety.
- **IMMIGRATION:** Unlike juvenile convictions, adult convictions count for immigration purposes. An unsealed conviction can hinder a youth's chances to gain Lawful Permanent Resident status and/or US citizenship.
- **PUBLIC HOUSING:** Adults convicted of committing a felony drug offense "on or adjacent to NYCHA building and grounds" can be banned from public housing facilities. NYCHA can also ban adults with multiple misdemeanors or violations for five years.⁴ These policies also apply to adolescents tried as adults and can force a youth out of his or her family's home or force the family to move regardless of the innocence of the rest of the family members.

OTHER STATES LEADING THE WAY . . .

The chart below describes the age of responsibility and transfer mechanisms for each of New York's neighboring states. Sixteen and seventeen year-olds arrested and charged in most neighboring states will be tried in a juvenile court and have their records sealed.⁵ Out-of-state youth who move to New York are not subject to the same collateral consequences as their counterparts who were arrested and prosecuted in New York as adults. Conversely, New York youth who choose to live in another state would be required to list adult arrests and convictions regardless of the age of jurisdiction of their new state of residence.

| State | Age of Criminal Jurisdiction ⁶ | Transfer-Up Mechanism ⁷ (Minimum Age in Parenthesis) |
|---------------|---|---|
| Connecticut | 17 | Automatic transfer for capital felonies and arson (14). Recently incorporated 16 year-olds into juvenile system, in process to incorporate 17-year olds. |
| Massachusetts | 17 | Automatic transfer for murder (14) Two pieces of legislation have been introduced to raise the age of jurisdiction to 18. |
| New Jersey | 18 | Prosecutorial discretion if youth meets offense criteria (14) Mandatory waiver by court if youth meets offense criteria (16) |
| Pennsylvania | 18 | Judicial determination for any offense (14) Statutory exclusion for youth who meet age and offense criteria. |
| Vermont | 18 | Judicial determination if youth meets offense criteria (10) Statutory exclusion for youth who meet offense criteria (14) Direct file (Prosecutorial Discretion) for any offense (16) |

CONNECTICUT

Increasing the age to 18-years-old will result in greater benefits for Connecticut.

- Based on a cost-benefit analysis that includes victimization costs, Connecticut will receive \$3 benefit for every \$1 cost for raising the age.⁸

Better serving all youth

- Connecticut's Juvenile Jurisdiction Planning and Implementation Committee (JJPIC) specifically recommended improving and increasing community-based options to serve more youth in their communities and thereby increasing diversions at the point of arrest and earlier in the pre-trial process.⁹
- Noting the specific service needs of an older adolescent population, the JJPIC recommended the phasing-in of additional developmentally appropriate services. This included community-based substance abuse and mental health services.¹⁰

NORTH CAROLINA

The future benefits to the state and residents of North Carolina are greater than the costs.

- Raising age to 18 will cost taxpayers \$70.9 million, but will generate \$123.1 million in long-term benefits for youth, victims, and taxpayers.¹¹

Without a criminal record, a youth can vote, obtain financial aid, receive public housing, and find employment despite their prior non-violent offenses.

- Access to higher education further lowers recidivism rates.
- Additional earnings for youth without a criminal record add up to \$97.9 million in benefits to the youth.¹²

Reduced recidivism benefits society by creating a safer community.

- A 10% reduction in recidivism will result in 2,461 fewer victimizations associated with misdemeanor and felony arrests.¹²

For more information on how to get involved with the Raise the Age campaign, please contact Avery Irons at diron@cdfny.org or (212) 697-2323.

¹Sobie, Merril. "Pity the Child: The Age of Delinquency in New York." Pace Law Review. Vol. 30 Iss. 3. Spring 2010, p. 1061.

²"Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America." The Campaign for Youth Justice, November 2007.

³New York Department of Juvenile Justice 2001.

⁴New York City Housing Authority. Frequently Asked Questions from Public Housing Residents. Available at www.nyc.gov/html/nycha/html/residents/resident_questions.shtml#tot.

⁵For those who will be charged as adults, most neighboring states have a due process mechanism.

⁶Campaign for Youth Justice, State Trends Report, 2005-10.

⁷National Center for Juvenile Justice, State Juvenile Justice Profiles 2009.

⁸Roman, John. Remarks before the Judiciary and Appropriations Committee, Connecticut General Assembly, February 21, 2006.

⁹Connecticut Juvenile Jurisdiction Planning and Implementation Committee Final Report. February 12, 2007. P.7

¹⁰Id. at 12.

¹¹Christian Henrichson and Valerie Levshin, Cost-Benefit Analysis of Raising the Age of Juvenile Jurisdiction in North Carolina, VERA, January 10, 2011. P.iii.

¹²Tamar R. Birkhead, North Carolina, Juvenile Court Jurisdiction, and the Resistance to Reform, North Carolina Law Review (2008).