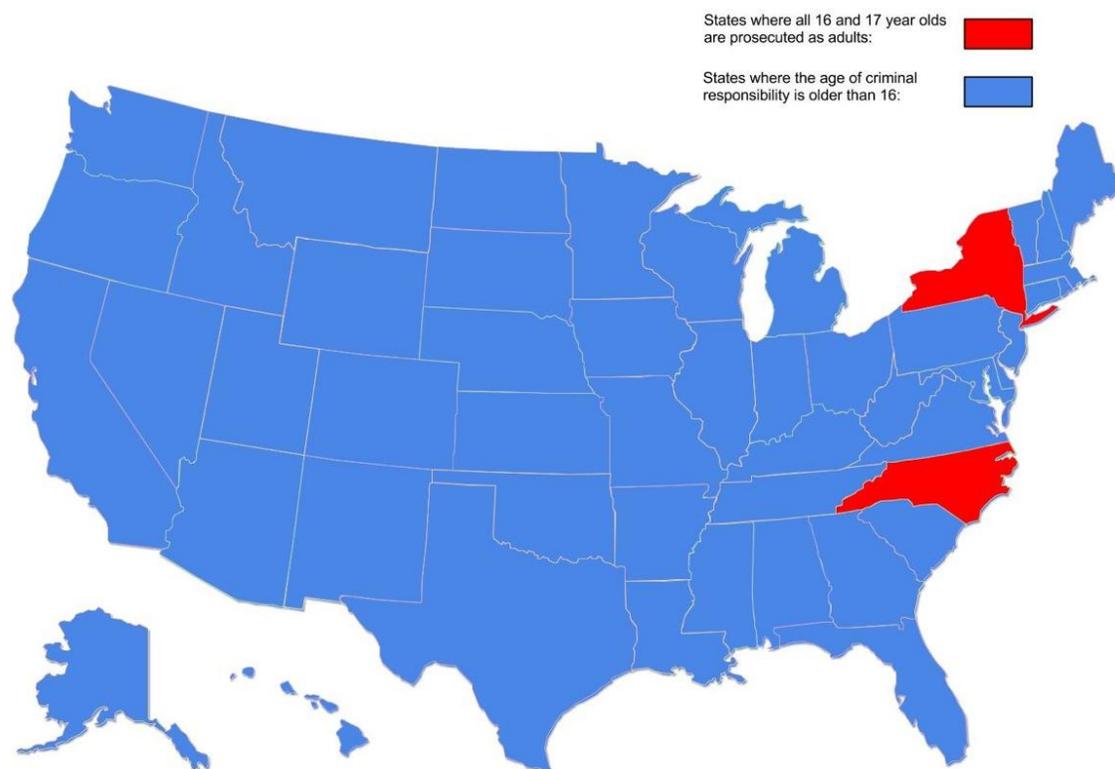


Only New York and North Carolina Prosecute ALL 16- and 17-Year-Old Children as Adults



Did you know that in New York:

- All 16- and 17-year-olds are treated as adults in the criminal justice system regardless of the alleged offense. This even applies for the overwhelming majority (75.3%) who are charged with misdemeanors!
- 16- and 17-year-olds prosecuted in adult courts, who are incarcerated or detained, are housed with adults in adult jails and prisons. Research shows that youth are not safe in adult jails and prisons and are at the greatest risk of sexual victimization and physical violence.
- Youth in adult prisons are often placed in solitary confinement- sometimes as a means of merely keeping them separate from adults. The isolation young people face in adult facilities is destructive to their mental health, physical health and development.
- Youth are 36 times more likely to commit suicide in an adult facility than in a juvenile facility.
- Prosecuting youth in the adult system (rather than a juvenile system) has repeatedly been proven to increase their likelihood of committing crimes or violent acts in the future.
- When youth under age 19 are incarcerated, they are less likely to graduate high school and more likely to end up back in prison.
- Because 16- and 17-year-olds are treated as adults in NY they do not have access to the continuum of services that has successfully enabled New York's younger youth to remain in their homes and communities without endangering public safety.

Who & Where Are the Children and Youth in New York's Justice System

16- and 17-Year-Olds in New York:

- New York State is one of only 2 states in the country (the other is North Carolina) that statutorily defines age 15 as the cut-off for juvenile jurisdiction. Any child who is alleged to have committed a crime when 16 or older is processed in the adult system, regardless of the alleged offense.
- There were 45,692 arrests of 16-and 17-year-olds in 2010.
- 75.3% of these arrests were for misdemeanors.
- Youth processed in the adult system do not have access to the same continuum of community-based interventions that have been proven successful in reducing recidivism and rehabilitating youth in the youth justice system.
- 4,919 youth were sentenced to some period of incarceration in 2010.
- Youth are housed in adult jails and prisons. In some jails, youth are separated from adults most of the time, but still have contact in common areas. In adult prisons, there is no separation from adults at any time.
- 2,059 youth arrested in 2010 ended up with a criminal conviction. This conviction remains part of the child's permanent criminal history for life and can cause barriers to employment, housing, education and immigration status.

7- to 15-Year Olds Charged As Juvenile Delinquents (JDs)

- These are children between 7 and 15 years of age who committed an act that would constitute a crime if committed by an adult.¹
- There were 26,925 arrests of 7-15 year olds in 2010.
- 56% were for misdemeanors.
- 10% of court filings were for children aged 12 and under. The vast majority of children who are arrested are referred to community-based services. Those who have cases filed against them are often placed on probation or receive rehabilitative services while they remain in their homes and communities. These intervention strategies have been proven to enhance public safety by reducing recidivism and enhancing children's well-being.
- There were 12,000 court filings resulting in 1,300 placements into youth facilities. If detained or placed, youth are housed in youth facilities, with youth-focused services and programming, a focus on rehabilitation, and staff trained in youth development.
- Juvenile records are not part of a child's permanent criminal history.

13- to 15- Year Olds Charged As Juvenile Offenders (JOs)

- These are children who are automatically tried in adult criminal court (rather than family court) due to the type of the offense they allegedly committed when they were between the ages of 13 and 15.²
- There were 789 "Juvenile Offense" arrests in New York State in 2010.
- In New York City only 10% of JO cases were transferred to Family Court in 2010.
- These children are processed in the adult court system under the same laws that apply to adults. They do not have access to the continuum of rehabilitative services found to be effective for youth charged with juvenile delinquency.
- Youth are held in youth facilities until at least their 16th birthday, at which point there are legal processes through which they can be transferred to adult prisons.

¹ By law, children 7-15 cannot be criminally responsible for their conduct by reason of their infancy, which is why they are called Juvenile Delinquents (JDs). The Family Court Act uses the Criminal Law definitions of crimes for these "acts" (such as drug possession, larceny, etc.)

² JO crimes include Murder, Arson, Kidnapping, Aggravated Sexual Abuse, Assault, Attempted Kidnapping, Attempted Murder, Burglary, Manslaughter, Rape, Robbery, Sodomy, Possession of Weapon on school grounds. In rare instances, a case may be transferred to Family Court.

RAISE THE AGE CAMPAIGN FACT SHEET

New York is one of only two states in the country that have failed to recognize what research and science have confirmed – adolescents are children, and prosecuting and placing them in the adult criminal justice system doesn't work for them and doesn't work for public safety.

But New York continues to be the only state other than North Carolina that prosecutes ALL youth as adults when they turn 16 years of age.

Brain Development Science Is Clear – Adolescents Are Different Than Adults

Research into brain development underscores that adolescents are in fact children and that the human brain is not fully formed until the age of 25.

- As the cognitive skills of adolescents are developing, adolescents' behavior is often impulsive and adolescents lack the ability to focus on the consequences of their behavior.ⁱ
- Because the adolescent brain is still developing, the character, personality traits and behavior of adolescents are highly receptive to change; adolescents respond well to interventions, learn to make responsible choices, and are likely to grow out of negative or delinquent behavior.ⁱⁱ

Further, New York allows children as young as 7 years old to be arrested and charged with acts of juvenile delinquency

Who's Affected?

- Nearly 50,000 16 and 17-year olds are arrested and face the possibility of prosecution as adults in criminal court each year – the vast majority for minor crimes (75.3% are misdemeanors).ⁱⁱⁱ
- Furthermore, more than 600 children ages 13 to 15 are also prosecuted in adult criminal courts – seriously diminishing their life prospects before they've even entered high school.^{iv}
- Over 70% of the children and youth arrested are black or Latino. Of those sentenced to incarceration, 80% are black and Latino.^v

What's At Stake?

Treating children as adults in the criminal justice system is short-sighted and ineffective; youth incarcerated in adult facilities are **more likely to suffer physical and emotional abuse** and to **recidivate** – realities that are at odds with the goal of rehabilitating youth and protecting public safety:

- Studies have found that young people transferred to the adult criminal justice system have approximately **34% more re-arrests for felony crimes than youth retained in the youth justice system.**^{vi} Around 80% of youth released from adult prisons reoffend often going on to commit more serious crimes.^{vii}
- Studies show that youth in adult prisons are twice as likely to report being beaten by staff, and 50% more likely to be attacked with a weapon than children placed in youth facilities.^{viii}

- Youth in adult prisons face the highest risk of sexual assault.^{ix}
- Youth in adult prisons are often placed in solitary confinement. The isolation young people face in adult facilities is destructive to their mental health and can cause irreparable harm.^x
- Youth are 36 times more likely to commit suicide in an adult facility than in a juvenile facility.^{xi}

Rather than continuing to lock young people up in adult prisons, it is critical for New York to ensure that that youth involved in the criminal justice system are provided with court processes, services and placement options that are developmentally appropriate.

New York State needs to raise the age of criminal responsibility in a comprehensive manner.

- The legal process must respond to all children as children and services and placement options must meet the rehabilitative needs of all young people.
- A comprehensive approach to raising the age of criminal responsibility in New York State is in the best interest of New York's children and youth, communities and community safety.

ⁱ MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice. Issue Brief #3: Less Guilty by Reason of Adolescence. Retrieved from: http://www.adjj.org/downloads/6093issue_brief_3.pdf.

ⁱⁱ "What Makes Delinquent Youths 'Go Right'?" *Juvenile Justice: New Models for Reform* (John D. and Catherine T. MacArthur Foundation, 2005): 16, accessed January 19, 2013, <http://www.macfound.org/press/publications/juvenile-justice-new-models-for-reform/>.

ⁱⁱⁱ *Criminal Justice Case Processing of 16-17 Year Olds*, Prepared by DCJS OJRP January 4, 2013

^{iv} The Children's Defense Fund & Youth Represent. Why New York Needs Comprehensive Juvenile Justice Reform Now. Retrieved from: <http://www.cdfny.org/research-library/raise-the-age-for-all-youth.pdf>.

^v *Criminal Justice Case Processing of 16-17 Year Olds*, Prepared by DCJS OJRP January 4, 2013

^{vi} Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: Report on Recommendations of the Task Force on Community Preventive Services, Centers for Disease Control and Prevention, November 30, 2007, <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>

^{vii} National Campaign to Reform State Juvenile Justice Systems. The Fourth Wave: Juvenile Justice Reforms for the Twenty-First Century; p. 20. Retrieved from: <http://www.publicinterestprojects.org/wp-content/uploads/2012/11/JJ-Whitepaper-Design-Full-Final.pdf>.

^{viii} Fagen, J., Forst, M. Vivona, T.S. "Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy", *Juvenile and Family Court Journal*, No.2, 1989.

^{ix} National Prison Rape Elimination Commission, Report 18, June 2009, <https://www.ncjrs.gov/pdffiles1/226680.pdf>

^x "Keep Youth Out of Adult Prisons," National Juvenile Justice Network, accessed January 16, 2013, <http://www.njjn.org/about-us/keep-youth-out-of-adult-prisons>.

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