



Major Cities Chiefs Association

Policy Statement

Youth in the Adult Criminal Justice System

Preface

In the United States, there are around 90,900 youth under the age of 18 automatically excluded from juvenile court, down from 175,000 youth a decade ago.¹ This significant decline is due in large part to states passing legislation to raise the age of juvenile court jurisdiction so that 16 and/or 17 year olds are not automatically treated as adults in the criminal justice system. Since 2007, the states of Connecticut, New Hampshire, Illinois, Massachusetts, Mississippi, Louisiana, South Carolina and New York have all passed legislation to raise the age of juvenile court jurisdiction in their states. Now there are only six states in the country that have not passed legislation to raise the age, those states include: Georgia, Michigan, Missouri, North Carolina, Texas, and Wisconsin. “Raise the Age” legislation has received wide bipartisan support from legislators and community stakeholders due to growing research on adolescent brain development and data on the impact of trying, treating, and incarcerating youth in the adult criminal justice system.

Key Issues

- Over the past 20 years, research has confirmed that during adolescence, the brain, particularly the prefrontal cortex, is not fully developed or connected with the limbic system. Therefore, youth do not have the same higher order cognitive functions as adults, such as planning ahead, weighing risks and rewards, and complex decision-making.² Youth also have less self-control and ability to regulate their emotions.³ As a result, youth behave in immature, impulsive, and irresponsible ways, but luckily have the ability to grow up and out of this behavior with age.
- Adolescent brain development is further complicated by exposure to trauma for some youth. According to the National Child Traumatic Stress Network, youth who have been complexly traumatized often suffer from “body dysregulation, meaning they over-respond or under respond to sensory stimuli... [and] [t]hey may engage in risky behaviors that compound” recurrent physical complaints that are the result of impaired brain and nervous system development.⁴ These youth are impacted physical, emotionally, and mentally in ways that

¹ Justice Policy Institute. (2017). *Raise the Age: Shifting to a Safer and More Effective Juvenile Justice System*, 6. Washington, DC: Justice Policy Institute.

<http://www.justicepolicy.org/uploads/justicepolicy/documents/raisetheage.fullreport.pdf>

² Steinberg, L. *Should the Science of Adolescent Brain Development Inform Public Policy?* Issues in Science and Technology, Volume XXVIII Issue 3, Spring 2012. Available online at <http://issues.org/28-3/steinberg/>

³ *Id.*

⁴ National Child Traumatic Stress Network, Effects of Complex Trauma, <http://www.nctsn.org/trauma-types/complex-trauma/effects-of-complex-trauma> (site visited on Feb. 6, 2017).

negatively impact their behavior. It is estimated that 75% of youth involved in the juvenile justice system have experienced traumatic victimization.⁵

- According to research by the Bureau of Justice Statistics, of the youthful inmates aged 16 and 17 who reported sexual abuse, an estimated 78.6% reported experiencing physical force or threat of force and 65.5% reported being victimized more than once.⁶ The National Prison Rape Elimination Commission found that “more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse.”⁷
- Youth who are prosecuted in the adult system are 34% more likely to recidivate and with more violent offenses than their peers prosecuted in the juvenile system.⁸ In addition, youth held in adult jails and prisons are more likely to commit suicide than adult inmates, and they have significantly more behavioral issues and rule violations.⁹
- Since 95% of these youth will return to their communities by age 25¹⁰, it is critical to the public safety of their communities that they receive the behavioral, social, and mental health treatment that they need to become law-abiding citizens and avoid any future victimization.

Policy Positions

The Age of Juvenile Court Jurisdiction:

Juvenile courts should have original jurisdiction over youth under the age 18 for matters involving delinquent behavior. Youth under the age of 18 should not be automatically transferred to the jurisdiction of the adult court based solely on their age. Instead, juvenile court judges who are trained and equipped to assess the individual needs of youth should decide whether the youth can be rehabilitated in the juvenile justice system or whether public safety requires the youth to be transferred to the adult criminal justice system. There should be a strong presumption that juvenile courts have original and exclusive jurisdiction over youth under the age of 18 unless evidence to the contrary is presented to the court by the prosecuting attorney.

Youth Held in Adult Jails and Adult Facilities:

To the extent possible under the law, youth should be held in juvenile justice facilities instead of adult facilities. There should be strong presumption that youth can be held in juvenile facilities unless evidence to the contrary is presented to the court by the prosecuting attorney.

⁵ The National Child Traumatic Stress Network, Service Systems Brief V. 2 N.2 (Aug. 2008)

<http://www.nctsn.org/sites/default/files/assets/pdfs/judicialbrief.pdf>

⁶ Beck, A. (2013). *Sexual Victimization in Prisons and Jails Reported by Inmates, 23, 2011-12*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. <http://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>

⁷ National Prison Rape Elimination Commission. (2009). *National Prison Rape Elimination Commission Report*. Washington, DC: National Prison Rape Elimination Commission.

⁸ Ziedenberg, Jason, *You're An Adult Now Youth in the Adult Criminal Justice Systems* (2011). Available online at <http://static.nicic.gov/Library/025555.pdf>

⁹ Noonan, M.E. & Ginder, S (2015). Mortality in Local Jails and State Prisons, 2000-2013- Statistical Tables. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. Kuanliang, A., Sorensen, J., Cunningham, M. (2008). Juvenile Inmates in Adult Prison System: Rates of Disciplinary Misconduct and Violence. *Criminal Justice and Behavior*, 35, 1186-1201.

¹⁰ Redding, Richard E. (2010). *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* Washington DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.