



CITIZENS CRIME COMMISSION
OF NEW YORK CITY

TESTIMONY

Assembly Standing Committee on Codes
Assembly Standing Committee on Judiciary
Assembly Standing Committee on Children And Families
Assembly Standing Committee on Education
New York State Black, Puerto Rican, Hispanic, And Asian Legislative Caucus

The Laws Governing the Age of Adult Criminal Responsibility

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Citizens Crime Commission of New York City
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New York, NY 10017

Presented by:

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Good morning, Chairmen Lentol, Weinstein, Lupardo, Nolan, and Camara. The Citizens Crime Commission of New York City welcomes the opportunity to testify at this joint hearing that you have convened to examine the laws governing the age of adult criminal responsibility.

About the Crime Commission

For over 30 years the Crime Commission has been a leader in converting ideas that address crime and protect the economic and social viability of New York into action. A non-partisan non-profit organization working to make criminal justice and public safety policies and practices more effective, the Crime Commission addresses gaps in the criminal justice system by combining expertise in research, advocacy, education, and innovation on a broad range of issues from juvenile justice, to gun violence, to cyber crime, to counter-terrorism, to crime prevention strategies.

The Crime Commission Supports Raising the Age of Criminal Responsibility

The Crime Commission is appearing today to express our support of raising the age of criminal responsibility to 18 years old.

In 2011, the Crime Commission and its partners convened an informal network of stakeholders from all over New York State to conduct a comprehensive analysis of the laws governing the age of criminal responsibility and the impact these policies have on youth and our communities.

Interviewing over 100 stakeholders including judges, prosecutors, corrections officials, law enforcement, service providers, and advocates, we learned the current system has not been effective in deterring and preventing future crime, results in needless duplication and gaps in services, negatively effects youth, and comes at a high cost to society. Most importantly, we found broad consensus in a number of areas. These findings indicate it is time for New York to realign our justice system with the rest of the country and set our youth on a path towards success and away from crime.

Ineffective Deterrent & Prevention Strategy

Each year, nearly 50,000 16- and 17-year-olds are arrested statewide—the vast majority for minor crimes (75% for misdemeanors). City youth represent over half of these arrests.¹

Over 15,000 cases were dismissed via adjournment in contemplation of dismissal (ACD or ACOD) in 2011.² When utilizing this disposition option, the court is not legally required to assess the youth's risks or needs, and it is not required to make referrals for services based on the results of a risk and needs assessment. These cases are tens of thousands of missed opportunities to identify and address the underlying factors that brought these youths into the justice system.

In addition, more than 5,000 16- and 17-year-olds were sentenced to a period of incarceration in an adult jail or prison. Of them, 67% were arrested for a nonviolent felony or misdemeanor.³

These sentencing practices produce poor outcomes. A New York State Division of Criminal Justice Services' recidivism analysis found that nearly 70% of 16- and 17-year-olds sentenced to jail were reconvicted of a felony or misdemeanor offense within five years of their conviction, compared to 47% of those receiving straight probation sentences.⁴

National studies show re-arrests among youth placed in adult facilities are 34% higher than among those housed exclusively with juveniles.⁵

In other words, placing 16- and 17-year-olds with adults instead of only with offenders in their own age group leads to thousands more crimes committed over time.

As adults, those young people are then more likely to continue to commit crime and much less likely to contribute to society. There's a scientific reason why: studies show that the regions of the brain which regulate foresight, impulse control, and peer pressure are still developing at age 17.⁶

The outcomes of the current system clearly indicate that New York's low age of criminal responsibility is ineffective in deterring and preventing future crime. These youths and our communities would benefit from treating 16- and 17-year-olds in an age-appropriate manner that seeks to rehabilitate youth while holding them accountable.

Needless Duplication & Gaps in Services

When youth enter the criminal justice system they encounter numerous agencies throughout the case process. Because the age of criminal responsibility is not aligned with other policies, needless duplication and gaps in services are created.

For example, in New York City, inmates under age 18 who have not graduated from high school or earned a GED must attend school while incarcerated.⁷ Because 16- and 17-year-olds make up a small portion of the jail and prison population (<1% in NY State prisons⁸ and 7% in NYC jails⁹) the dividing line of the age of criminal responsibility poses a challenge for providing educational services to youths in correctional facilities. Typically, 16- and 17-year-olds are still in high school working towards a high school diploma, while individuals age 18 and older are generally out of high school or working towards earning a GED.

The juvenile justice system is already providing educational services to high school students (ages 15 & under) and have implemented mechanisms to ease the transition from confinement back to school. If jurisdiction is raised to age 18, adult correctional facilities

would no longer need to provide high school curriculum. Therefore, educational services could be streamlined and focused to better suit the needs of these populations. This would ultimately improve outcomes and lead to cost savings and increased earning potential.

Moreover, coordination of services is often hindered because the age of criminal responsibility is not aligned with other policies. For example, the Office of Mental Health sets the dividing line for adulthood at age 18,¹⁰ providing separate services for those younger and older (these services are typically run by different providers for each age group). In most jurisdictions in NY State, only the adult services (18+) staff work with the criminal justice system, and the children's services (under 18) staff only work with the juvenile justice system. The absence of children's services staff in the criminal system creates a gap in services for the 16- and 17-year-olds who are tried as adults.

Negative Effects on Youth

Further, the current system negatively effects youth in a number of ways.

Education, employment, and stable housing have been found to be protective factors against delinquency and criminality. For adolescents, involvement in the criminal justice system and having a criminal record creates barriers to finishing high school, getting into college, obtaining employment, and securing housing.

Justice system involvement can hinder educational advancement as court appearances, incarceration, and collateral consequences of a criminal record can cause youth to fall further behind in their education and/or decrease their ability to attend college. In fact, two-thirds of youth released from jail do not return to school in the community.¹¹

A criminal conviction can severely limit educational and employment opportunities because New York youths who are convicted of crimes at 16 and 17 years of age have to report their conviction if asked on a college or job application. Meanwhile, 16- and 17-year-olds who are convicted of the same crimes in 48 other states don't have to carry that burden.

This jeopardizes public safety, as studies show every additional year of education is estimated to reduce arrest rates by 11%.¹² An additional year of schooling is estimated to reduce instances of murder and assault by nearly 30%; motor vehicle theft by 20%; arson by 13%; and burglary and larceny by 6%.¹³

Criminal record checks have become a common part of the tenant screening process making it even harder to find housing. Property owners typically require rental applicants to provide sufficient personal information to enable them to conduct a credit history check. This information gives property owners enough data to run a criminal background check as well. The Fair Housing Act does not prohibit property owners from discriminating against applicants based on their criminal history.¹⁴

For youth who reside in or are seeking to live in public housing, a criminal *arrest* or *conviction* can prohibit them from doing so. Individual housing authorities have the discretion under federal law to determine whether they will bar applicants with criminal histories, and whether they will consider the individual circumstances of an arrest.¹⁵ In New York City, every person aged 16 and over who will be residing in public housing is subject to a criminal background check.¹⁶ The housing authority has discretion to admit or deny housing based on any criminal offense including violations¹⁷--which over 8,500 16- and 17-year-olds were convicted of in 2011.¹⁸

Continuing the status quo by not raising the age of criminal responsibility means each year thousands of youth face the possibility of ending their careers and limiting their livelihoods before they've ever had a chance to go to college, job-hunt, or get a home of their own.

High-Costs to Society

These negative effects and the high levels of re-arrests and re-offending, noted earlier, put a long-term strain on taxpayers, costing millions every year. A Vanderbilt University study found that the whole cost to society of a juvenile offender who becomes a career criminal – including lost income, taxes and productivity – is, on average, \$3.8 million.¹⁹

There are more immediate costs to our criminal justice system as well. The average inmate in New York City jail costs us nearly \$168,000 a year.²⁰

Versus an average of \$11,000 per person for an alternative to incarceration (ATI) program.²¹ ATIs are not exactly a cakewalk for offenders either; sentenced youth are still held accountable for their actions via strict program mandates and the possibility of harsher sanctions if the youth does not comply.

Given that less than 20% of ATI program participants have a new criminal conviction within two years;²² it is clear that interventions for these teens are both cheaper and more effective.

Broad Consensus

Lastly, during our conversations with stakeholders from across the state we discovered broad consensus in a number of areas including:

- ☞ Access to a developmentally-appropriate approach and rehabilitative services;
- ☞ Parental notification of arrest and court proceedings;
- ☞ Opportunities for front-end diversion;
- ☞ Removing adolescents from adult correctional facilities; and
- ☞ Expanded disposition options.

Proposals have been introduced that will achieve the goals in the areas where we found broad consensus. The New York State Legislature should take action this session to move us towards realigning our justice system with the rest of the country.

Conclusion

This will be the third legislative session in a row where a bill to raise the age of criminal responsibility will be considered. We cannot afford this archaic approach any longer.

In the more than 50 years that New York State has been treating 16- and 17-year-olds as criminally responsible adults, we have learned five critical things:

First, New York's current system is ineffective in deterring and preventing future crime;

Second, New York's low age of criminal responsibility results in needless duplication and gaps in services;

Third, there are significant short-term and long-term negative effects on 16- and 17-year-olds who encounter the criminal justice system;

Fourth, the impacts of the system come at a high-cost to society; and

Fifth, we do not need to wait any longer to start handling the cases of 16- and 17-year-olds in an age-appropriate manner.

To get these youths on a path away from crime, protect the victims of the crimes they will commit in the future if they don't rehabilitate, and save taxpayers the exorbitant cost of incarcerating them instead of treating them, this must be the year we finally raise the age of criminal responsibility in New York.

Raising the age will not only reduce crime and save taxpayer dollars; it will help countless young people have another shot at a good, productive life. The nearly 50,000 16- and 17-year-olds who will enter our justice system in the coming year deserve a helping hand, not a closed fist.

Let's start treating all youth as youth to protect our communities from preventable harm.

ENDNOTES

- ¹ Jeff Storey, (2012 June 26), “Lippman Vows Changes to Confront Doubts About Youth Reform Bill”, *New York Law Journal* (Citing: New York State Division of Criminal Justice Services, Computerized Criminal History system (as of 5-2012) “New York State Arrests Among 16-17 Year Olds”)
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- ³ Jeff Storey, (2012 June 26), “Lippman Vows Changes to Confront Doubts About Youth Reform Bill”, *New York Law Journal* (Citing: New York State Division of Criminal Justice Services, Computerized Criminal History system (as of 5-2012) “Dispositions of Arrests Involving 16-17 Year Olds”)
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- ⁶ Laurence Steinberg, (2011), “Should the Science of Adolescent Brain Development Inform Public Policy?”, *Issues in Science and Technology*, National Academy of Sciences, National Academy of Engineering, Institute of Medicine, University of Texas at Dallas, available at <http://www.issues.org/28.3/steinberg.html>
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- ⁹ New York City Department of Correction, *Adolescents: Overview*, available at http://www.nyc.gov/html/doc/html/adolescent/doc_stats_adol.shtml
- ¹⁰ New York State Mental Hygiene Law § 1.03(26)
- ¹¹ New York City Department of Probation & New York City Center for Economic Opportunity, (2011), *AIM (Advocate, Intervene, Mentor) Program Concept Paper*, available at http://www.nyc.gov/html/prob/downloads/pdf/aim_concept_paper.pdf
- ¹² Lance Lochner & Enrico Moretti, (2003), *The Effect of Education on Crime: Evidence from Prison Inmates, Arrests and Self-Reports*, available at <http://elsa.berkeley.edu/~moretti/lm46.pdf>
- ¹³ Lance Lochner & Enrico Moretti, (2003), *The Effect of Education on Crime: Evidence from Prison Inmates, Arrests and Self-Reports*, available at <http://elsa.berkeley.edu/~moretti/lm46.pdf>
- ¹⁴ 42 U.S.C. § 3604 (2006)
- ¹⁵ 42 U.S.C. § 13661(c) (allowing public housing authorities to deny applicants on the basis of certain criminal convictions); Legal Action Center, (2004), *After Prison: Roadblocks to Reentry*; A

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- Report on State Legal Barriers Facing People with Criminal Records, available at http://www.lac.org/roadblocks-to-reentry/upload/lacreport/LAC_PrintReport.pdf*
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