

TIME TO EXPAND NEW YORK'S YOUTH JUSTICE REFORMS & TREAT ALL KIDS AS KIDS

New data show that arrests of youth in New York State declined 20% between 2010 and 2012. The number of arrests declined across all ages and offense types. This decrease follows a decade of significant reforms in New York's youth justice system. However, New York remains one of only two states that automatically prosecutes all youth over the age of 15 in the adult system, despite overwhelming evidence that prosecuting youth as adults increases recidivism. The dramatic, recent decrease in arrests of young people leaves New York well-positioned to extend the youth justice reforms of the past decade to all children.

Youth justice in New York State has undergone a significant shift in recent years. Over the past decade, New York has accomplished a number of youth justice reforms aimed at reducing the number of youth confined in facilities, increasing the use of community-based services, and holding youth in facilities closer to their homes. The dramatic 20% drop in the number of youth arrests following these reforms is consistent with research that shows that treating youth appropriately for their age and

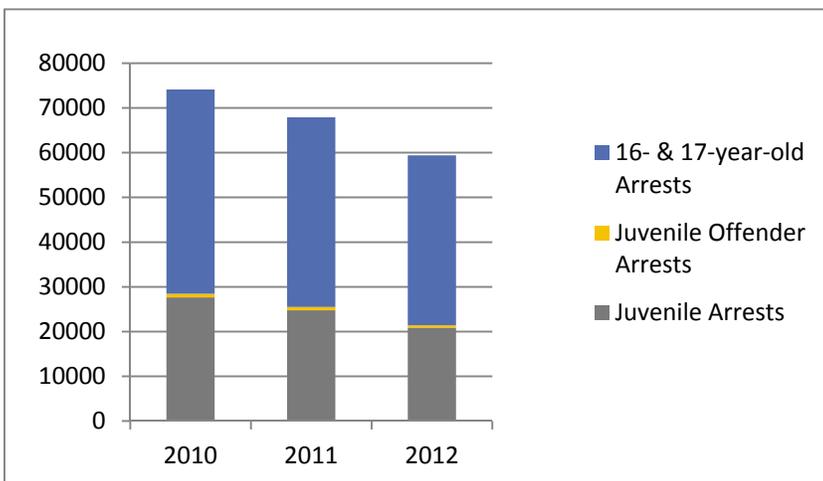
development reduces recidivism.

Research consistently shows that public safety and positive youth outcomes are intrinsically linked. A study that compared New York 15- and 16-year-olds who were prosecuted in the adult system with similar New Jersey youth prosecuted in the juvenile system found that New York youth were twice as likely to be re-arrested for a violent offense. National studies have similarly found the transferring youth to adult justice systems increases recidivism rates. Put simply, we can best ensure public safety by holding youth accountable while treating them appropriately for their age.

New York's successful youth justice reforms, coupled with the subsequent drop in youth arrests, sets the stage for addressing the needs of youth neglected by previous reforms. Now is the time to treat 16- and 17-year-olds appropriately for their age, and make New York a leader in youth justice.

A DECADE OF SUCCESSFUL YOUTH JUSTICE REFORMS

New York has taken great strides in youth justice reform. From 2001-2010, New York State reduced the number of children confined in facilities by 43%. Because of this decrease, the State closed several unused youth facilities and continues to evaluate under-utilized facilities for closure. This has resulted in significant cost-savings to the State. To achieve the reduction in the number of youth confined, New York made several important, evidence-based reforms:



Declining Youth Arrests 2010 to 2012
(see chart on page 2 for more details and definitions)

- *Creating a permanent funding stream to support evidence-based community programs and alternatives-to-incarceration.* This included providing increased reimbursement to local governments for community programming to a rate higher than that used for detention. These programs cost significantly less than confinement and provide better outcomes for youth, including lower recidivism rates.
- *Increasing the use of objective risk-assessment instruments when making detention decisions.* These instruments assist court decision-making, with the goal of ensuring that youth who pose little risk to public safety can remain with their families.
- *Increasing the number of cases that are adjusted, i.e., diverted from the courts prior to the filing of formal charges.* There is significant research that youth outcomes and recidivism rates deteriorate as low-risk youth move deeper into the justice system. Thus, adjusting the cases of low-risk youth actually prevents recidivism while saving the costs that would be associated with litigating a full court case. In New York City, the number of cases adjusted increased by 47% between 2009 and 2012 and the City now funds over 30 community-based adjustment programs that provide services to youth.
- *Shifting the financial responsibility for the placement of youth in facilities from the*

state back to counties. This realignment included the “Close to Home” initiative, which moved New York City youth from upstate facilities to smaller facilities within the City. This has allowed youth to remain close to their families, which allows for family visits during confinement and smoother transitions back into communities. This initiative has also allowed youth to earn educational credits while confined, which was previously impossible.

New York has been a national leader among states in reducing the number of children confined in facilities (which had skyrocketed up by 91% between 1985-2000 in New York State). Many national studies have shown that when youth are diverted into community programs and alternatives-to-incarceration, recidivism rates are lower. Given the recent drop in youth arrest rates statewide, then New York’s reforms follow this pattern and have not come at the expense of public safety.

20% DROP IN YOUTH ARRESTS FROM 2010-12

Following these major youth justice system reforms, arrest numbers for children under the age of 18 dropped by 20% from 2010 to 2012 in New York State. The decreases occurred across all ages and all offense types. Arrests of children age 15 and under decreased by 24%. Arrests of juvenile offenders, those children aged 13 to 15 who are automatically prosecuted in the adult system because they are charged with specified serious crimes, dropped by an astounding 36%. According to the Division of Criminal Justice Services, 2012 marked the lowest numbers of juvenile offender arrests since the law was enacted in 1978. Finally, arrests of 16- and 17-year-olds decreased by 17%. Overall, the total number of youth arrested in 2012 is down to 59,408, versus 74,589 just two years earlier.

A decade of significant reforms, followed by a subsequent dramatic

Detail of Youth Arrests 2010 to 2012				
	2010	2011	2012	% Decline
Juvenile Arrests*	27626	24746	20893	-24%
Juvenile Offender Arrests**	835	754	535	-36%
16- & 17-year-old Arrests	45692	42414	37980	-17%
Total Arrests of Youth Under Age 18	74153	67914	59408	-20%
*7- to 15-year-olds (except children charged as juvenile offenders)				
**Children age 13-15 automatically prosecuted as adults because charged with an enumerated list of serious offenses.				
Sources: NYPD, NYS DJCS UCR, NYS DJCS CCHS				

decrease in youth arrests, is an encouraging trend. New York must continue to introduce youth justice reforms that increase public safety and create positive outcomes for youth. Currently, New York is one of only two states that continues to automatically prosecute all youth over the age of 16 in the adult system for all charges, the other state is North Carolina. Now is the time to reinvest the capacity created by the decrease in youth arrests by raising the age for all young people to ensure that all children are treated appropriately for their age and have access to developmentally appropriate services.

New York must continue with youth justice reforms that increase public safety and create positive outcomes for youth. Currently, New York is one of only two states that continues to automatically prosecute all youth over the age of 16 in the adult system for all charges, the other state is North Carolina. Now is the time to invest in public safety and positive outcomes for youth by raising the age for all young people to ensure that all children are treated appropriately for their age.

RECOMMENDATIONS: BUILD ON SUCCESS BY RAISING THE AGE

Building on the reforms of the past decade, New York should raise the age for all youth under the age of 18, regardless of the criminal charges involved. New York is one of only two states that continues to automatically prosecute all youth in the adult system at age 16, a practice that is bad for youth and bad for public safety.

Numerous studies have shown that when these youth are prosecuted as adults, they are more likely to commit future crime, particularly

violent crime. A study comparing New York youth charged in the adult system with New Jersey youth charged in the juvenile system found significant negative public safety implications for prosecuting young people as adults. The study compared 15- and 16-year-olds with similar demographic and social backgrounds who were charged with violent crimes. The New York youth were charged in the adult system automatically due to New York's law; the New Jersey youth remained in the state's juvenile system. Astoundingly, the New York youth were twice as likely to be rearrested for a violent crime, 47% more likely to be arrested for a property crime, and 26% more likely to be reincarcerated.

A review of studies throughout the nation found that, overall, young people transferred to the adult criminal justice system have approximately 34% more re-arrests for violent and non-violent crimes than youth retained in the youth justice system. This review was conducted by the Task Force on Community Preventive Services of the Center for Disease Controls. Based on their study, the Task Force recommended against policies the transfer youth to the adult justice system for the purpose of reducing violence. The message is clear--charging youth in the adult system is bad for public safety.

Furthermore, the harms youth face when held in adult jails and prisons are astonishing. Youth held in adult facilities are 36 times more likely to commit suicide than those in youth facilities. Studies show that youth in adult prisons are twice as likely to report being beaten by staff, and nearly 50% more likely to be attacked with a weapon than children placed in youth facilities. Finally, youth face the highest risk of sexual assault of all inmate groups. Due to this risk, the Prison Rape Elimination Act requires youth under the age of 18 to be held separate from adults. New York is currently out of compliance with this law and stands to lose Department of Justice funding.

It is time for New York to extend to all youth the reforms that have been successful for our younger children. Thus, we make the following recommendations:

- 1. Raise the age for all youth under the age of 18, regardless of the crime that they are alleged to have committed.** Multiple studies have shown that when these youth are prosecuted as adults, they are more likely to commit future crime, particularly violent crime. Public safety will be best served if all youth are under the jurisdiction of the youth justice system.
- 2. Guarantee that no youth are housed in adult jails and prisons, a practice that is detrimental to youth safety and well-being.** Youth in adult jails are 36 times more likely to commit suicide than those held in juvenile facilities; youth also face the highest risk of sexual assault among all inmate populations. New York is currently out of compliance with the Youthful Inmate Standard of the Prison Rape Elimination Act. Housing all youth in juvenile facilities would help to keep youth safe from sexual abuse and would also help taxpayers, as failure to comply with PREA can result in a loss of federal funds for non-compliant states.
- 3. Continue to reduce detention and placement in juvenile facilities, and increase the use of community-based programs and services.** This goal can be accomplished by: (1) limiting eligibility for placement in facilities to only those youth who have committed serious offenses and pose a clear and demonstrated risk to public safety, and (2) ending the use of placement as a punishment for technical probation violations.
- 4. Increase the ability to divert cases, both at arrest and from court.** Approximately 75% of youth arrests are for misdemeanors. Diverting low-risk youth holds youth accountable while reserving court resources for youth who require more intensive

intervention. New York should expand off-ramps from the court system in two ways. First, we should give police officers the authority to divert low-risk youth at the point of arrest. Second, we should expand the discretion of probation officers to adjust cases before charges are filed. Research has shown that criminal justice interventions can have counter-productive effects, such as increases in recidivism, when applied to low-risk individuals.

- 5. Reduce racial and ethnic disparities.** Validated risk-assessment instruments should be applied consistently in all cases by trained professionals to ensure unbiased treatment of youth. However, these instruments and system outcomes must be regularly evaluated to ensure that they do not increase existing disparities.

Raising the age of criminal responsibility and following through on these necessary concurrent reforms are the next steps toward increased public safety and positive outcomes for youth. By treating all children appropriately for their maturity and development, we can extend and expand upon the positive impact on youth and public safety that has resulted from a decade of juvenile justice reform in New York. ■

Youth Represent is a youth defense and advocacy non-profit organization. Our mission is to ensure that young people affected by the criminal or juvenile justice system are afforded every opportunity to reclaim lives of dignity, self-fulfillment, and engagement in their communities. We provide comprehensive, community-based legal representation, community support, and education to youth under the age of 25 with current or past justice system involvement. We also use the knowledge gained from our representation to advance policy reforms.

To learn more or join in the effort to reform New York's youth justice system, contact:

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