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## Juveniles, Mass Incarceration, and Why “Raising the Age” is Not Enough

Kenya Barbara

In recent years, there has been plenty of talk and action towards criminal justice reform. People have recognized that our current dependency on prisons is not cost effective.<sup>1</sup> Additionally, prisons are not effective at doing the one thing that prisons are tasked with doing - deterring crime.<sup>2</sup> When discussing mass incarceration, many people forget about the hundreds of thousands of juveniles currently incarcerated in both juvenile detention centers and adult jails. However, thanks to new studies, many people have begun to seek reform to policies surrounding the juvenile justice system. One of those proposed reforms has been “Raise the Age” initiatives. Seventy-five percent of the United States uses the age of 18 as the line of demarcation between juveniles and adults.<sup>3</sup> Presently, many states are realizing that this arbitrary line in the sand does a disservice for young adults who are closer to juveniles than adults when it comes to brain functionality and maturity. Therefore, many organizations and politicians are proposing that states raise the age when young adults are adjudicated in adult court from 18 to 21.<sup>4</sup> A worthy cause it is but raising the age will not be enough. Mass incarceration is a colossal problem for both juveniles and adults. Raising the age only scratches the surface of the issue.

In order to evaluate the current state of the juvenile justice system, it is important to look at its roots. The first juvenile court was established in Cook County, Illinois in 1899.<sup>5</sup> This court was made thanks to the activism of women such as Jane Addams, Lucy Flower, and Julia Lathrop.<sup>6</sup> The court’s pur-

<sup>1</sup> Press Release, Wendy Sawyer, Prison Pol’y Initiative, Youth Confinement: The Whole Pie (Feb. 27, 2018), <https://www.prisonpolicy.org/reports/youth2018.html>.

<sup>2</sup> Zack Beauchamp, *STUDY: Throwing Kids in Jail Makes Crime worse, Ruins Lives*, THINK PROGRESS (June 17, 2013) <https://thinkprogress.org/study-throwing-kids-in-jail-makes-crime-worse-ruins-lives-f67672a65637/>.

<sup>3</sup> Ill. PTA Convention, *Report to 2017 Illinois Convention on Young Adults Involved in the Justice System*, Juvenile Just. Initiative (2017), available at <https://jjustice.org/wp-content/uploads/PTA-of-IL-FINAL-report-on-Young-Adults-2017-2.pdf>.

<sup>4</sup> Vincent Schiraldi & Bruce Western, *Commentary: Time to Raise the Juvenile Age Limit*, CHI. TRIB. (Oct. 5, 2015) <https://www.chicagotribune.com/news/opinion/commentary/ct-raise-juvenile-age-limit-21-20151005-story.html>.

<sup>5</sup> Juvenile Law Center, *Youth in the Justice System: An Overview*, Juvenile L. Ctr., <https://jlc.org/youth-justice-system-overview> (last visited Apr. 7, 2019).

<sup>6</sup> *Id.*

pose was to be more rehabilitative as opposed to punitive.<sup>7</sup> The thinking in choosing that philosophy seemed to be that mistakes made as a youth should not hinder someone for the rest of their lives.<sup>8</sup> Juvenile court was a big success and eventually spread to 46 states and 16 countries by 1925.<sup>9</sup>

After some time, the juvenile adjudication process switched from an informal process that was often behind closed doors and shielded from the public to a more formal process equipped with constitutional protections for juveniles.<sup>10</sup> In the 1980s and early 1990s, the system also made a change in philosophy.<sup>11</sup> The philosophy went from being completely focused on rehabilitation to one focused on getting tough on crime, including crime done by the youth.<sup>12</sup> This new policy deprived the youth of many of the juvenile justice system's protections.<sup>13</sup> Crime rates for juveniles have fallen, but many of these 'get tough' policies have remained.<sup>14</sup> Several reformers, politicians, and activists recognize that change must come.<sup>15</sup>

One of these proposed changes is to "Raise the Age," which proposes raising the line of demarcation between adult offenders and juvenile delinquents from 18 to 21-24.<sup>16</sup> These "Raise the Age" proposals come after many studies have proven that most juveniles do not automatically mature into less impulsive, better decision-making adults on their 18th birthday.<sup>17</sup> As noted in a report by the Illinois PTA Convention, cognitive function is more developed in an 18-year-old than that of a typical juvenile.<sup>18</sup> However, cognitive function of an 18-year-old is still not as developed as that of 24 or 25-year-old.<sup>19</sup> Many studies have found that decision making of young adults does not reach an adult level until their early twenties.<sup>20</sup> Even in their early twenties, an adolescents' psychosocial maturity continues its development for a longer amount of time.<sup>21</sup> Because of this unbalanced development, younger adults lack fully de-

<sup>7</sup> Schiraldi & Western, *supra* note 4.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Juvenile Law Center, *supra* note 5.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Schiraldi & Western, *supra* note 4.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Ill. PTA Convention, *supra* note 3.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

veloped decision-making processes that allow them to evaluate and consider the consequences of their actions.<sup>22</sup> What this signifies is that young adults still have a higher likelihood of engaging in risky behavior, and they are less likely to be able to control their emotions in certain situations.<sup>23</sup> Ultimately, studies are showing that 18 to 24-year-olds are closer to juveniles rather than other adults.<sup>24</sup> Raising the age would allow young adult offenders to continue to develop and grow past their mistakes and transition into adults without the hindrance of an adult criminal record.<sup>25</sup>

Raising the Age is a step in the right direction, but it is not the only step necessary for lasting change. While raising the age will help young adults avoid being harmed by the adult criminal justice system, it still does not address the overall ineffectiveness of mass incarceration and juvenile detention. In addition to the United States having the highest number of adults incarcerated, it is also the largest jailer of juveniles in the world.<sup>26</sup> Research indicates that incarceration actually increases crime.<sup>27</sup> Looking at 18-24-year olds, seventy-eight percent of them are rearrested after release, and half of them return to prison within three years.<sup>28</sup> They have the highest recidivism rate of any age group.<sup>29</sup> If incarceration is supposed to deter crime, why do those that experience it, especially at younger ages, end up right back there after their release?

Incarceration is even more ineffective for juveniles. A study conducted by the Massachusetts Institute of Technology (MIT) found that juveniles who went to prison were thirty-nine percent less likely to complete high school compared to other kids from the same neighborhood.<sup>30</sup> Juveniles who were incarcerated were 67% more likely to be in jail again by the time they reached 25.<sup>31</sup> Also, juveniles who have been incarcerated are more likely to commit violent crimes than those that are not incarcerated.<sup>32</sup> Juveniles are often sent to

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Liz Ryan, *Jailed Kids are Forgotten Victims of America's Mass Incarceration Crisis*, Quartz (Aug. 31, 2016) <https://qz.com/770021/jailed-kids-are-the-forgotten-victims-of-americas-mass-incarceration-crisis/>.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Schiraldi & Western, *supra* note 4.

<sup>30</sup> Beauchamp, *supra* note 2.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

jail for minor offenses.<sup>33</sup> 9,000 juveniles in juvenile detention are awaiting trials and have not been found guilty of anything.<sup>34</sup> Another 6,500 are awaiting sentencing or placement, and 4,000 are detained for nothing more than technical violations of probation or status offenses.<sup>35</sup> Kids are being incarcerated for minor offenses, cut off from their families, and missing out on most social interactions.<sup>36</sup> When these kids are released, they are more likely to become high school dropouts and more violent criminals.<sup>37</sup> This means incarceration is not effective. Raising the Age will help to alleviate some of the symptoms of incarceration, but it will not cure it.

Incarcerating people is not only lacking in effectiveness, but it is also not economically efficient.<sup>38</sup> Every year, the United States locks up more than 130,000 teens and young people at an average cost of about \$88,000 per inmate.<sup>39</sup> In Illinois alone, it costs the state \$85,000 per year to house a youth in prison.<sup>40</sup> Despite these facts, Illinois still fails to improve public safety or rehab the youth.<sup>41</sup>

Ultimately, Raising the Age deals with young adults that are often forgotten about and tossed out by the juvenile justice system. And it is a necessary move. Science demonstrates that it is irresponsible and wrong to hold developing young adults to the standards of older adults.<sup>42</sup> But it does not begin to deal with the fact the detention of juveniles is ineffective and inefficient. And it is ultimately a disservice both to the public and the juveniles themselves. In order for things to truly change, the juvenile justice system will need to return to its philosophy of rehabilitating young people and transforming their lives for the better.

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<sup>33</sup> *Id.*

<sup>34</sup> Sawyer, *supra* note 1.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Chris Sweeney, *Juvenile Detention Drives Up Adult Incarceration Rates, MIT Study Finds*, Boston Magazine (June 11, 2015), <https://www.bostonmagazine.com/news/2015/06/11/juvenile-detention-mit-study/>.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Juvenile Detention Alternatives and Mass Incarceration, JUVENILE JUST. INITIATIVE, <https://jjjustice.org/resources/juvenile-detention-alternatives/>.

<sup>42</sup> *Id.*