

Point of View:

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Fixing North Carolina's juvenile justice mistake

BY BART LUBOW

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I recently participated in community forums in Raleigh and Winston-Salem regarding North Carolina's policy of prosecuting and incarcerating 16- and 17-year-olds as adults. Given the charged debate about changing this law, the public deserves to know what protects public safety, treats youth fairly and appropriately and makes best use of scarce public resources.

Treating all 16- and 17-year-olds like adults does not work. North Carolina is one of only three states that exclude 16- and 17-year-olds from juvenile jurisdiction. In contrast, 75 percent of state juvenile justice systems handle youths up to age 18. Why has virtually every other state pursued a different course?

First, keeping youths in juvenile courts and juvenile facilities protects public safety better. Research has shown that youths who remain in the juvenile justice system have lower rates of re-arrest and re-incarceration than those transferred to the adult system.

Why? These youngsters do not suffer unnecessary exposure to hardened adult criminals or the traumas (e.g., rape) common in adult jails and prisons. Juvenile justice systems, while certainly far from perfect, are simply much more likely to house kids in relatively small facilities that offer age-appropriate sanctions and rehabilitative programs.

Second, keeping kids in the juvenile justice system makes sense given recent research showing that our brains, especially the critical parts that help with reasoning and govern risk-taking behavior, do not become fully developed until adulthood -- generally around the mid-20s. New research has clearly shown that most youthful offenders will cease delinquent behavior as part of the normal maturation process.

Obviously, youths who break the law should not have their behavior excused because of physiological immaturity. On the other hand, their susceptibility to peer pressure and lack of foresight regarding the consequences of their actions do mitigate their wrongdoings.

Based on this new research, the U.S. Supreme Court recently decided that the death penalty was unconstitutional when applied to crimes committed before age 18. The court's logic in rejecting the death penalty for juveniles is directly relevant to North Carolina's current debate.

Third, opponents of the movement to raise the age of majority argue that juvenile justice will be overwhelmed by these new cases because there are insufficient tax dollars available to pay the tab for this policy shift. But that argument holds water only if we fail to acknowledge that the cases of 16- and 17-year-olds are already being paid for with public dollars, just in a different court and corrections system. The challenge, therefore, is not, "How will we fund this change in policy?" Rather, it's how to ensure that the dollars follow the kids from the adult system to the juvenile system.

That's not an easy bureaucratic trick, but it can be figured out if the political will is present.

The final reason for changing North Carolina's policy -- the reason that perhaps should hold the most sway -- is what I call the "my child" test. This doesn't involve knowledge of "evidence-based practices" or cost-benefit analyses. Just ask yourself if your teenager -- or your young sibling, grandchild or the child of a family friend -- began behaving in a problematic way and ended up getting arrested, what would you want to happen? Would you want him in an adult system, or in one that is designed to protect him from youthful indiscretions by providing rehabilitative services and age-appropriate punishments?

Most people I talk to would prefer to see children who get into trouble kept in the juvenile justice system. The fact is, while most kids don't get arrested, the majority of teens do engage in delinquent behavior. Fortunately, most of them will "age out" of this behavior if given the opportunity and appropriate interventions, and will go on to become productive, law-abiding adults.

Kids haven't changed all that much since our society decided a hundred years ago that there should be a separate system of justice for youths. What changed is our attitude toward these kids, which produced 30 years of punitive, ineffective policies like North Carolina's current age limit. More recently and positively, what has changed is a growing understanding both of youth development and what works to protect public safety.

North Carolina has the opportunity to re-engineer its system based on this research and evidence. Moving away from its current policy of treating all 16- and 17-year-olds as adults will generate better results for youths and for public safety. And most importantly, it will be a step closer to a system that passes the "my child" test for what's right for North Carolina families.

Bart Lubow is a juvenile justice expert and director of programs for at-risk youth at the Annie E. Casey Foundation.

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