

NYSACOP Board of Governors Position on Juvenile Justice - 2017

NYSACOP's opposition to "raise the age" is not based on a desire to punish youth as adults, nor is it an effort to hold onto any "territory".

- ✓ NYSACOP supports treating the vast majority of juvenile offenders as children; in New York, we already do just that.
- ✓ 95 percent of 16- and 17-year-old defendants have their cases sealed.
 - In other words, 95 out of every 100 such cases result in outright dismissal, an adjournment in contemplation of dismissal, a plea to a non-criminal violation or a youthful offender adjudication.
- ✓ In New York, prison is a last resort for teenage criminals, reserved for the worst of the worst.

The myth that NY and NC are the only states that treat kids as adults in the criminal justice system is just not true.

- ✓ In truth, every state has laws that regulate the prosecution of 16- and 17-year-olds, as well as those even younger, in adult criminal courtrooms.
- ✓ The difference between the various states is the portal through which the teenage offender enters.
- ✓ For example, many states may initiate a charge against a 16-year-old in a juvenile court or a Family Court, but allow for transfer to an adult criminal court for the more serious cases.
- ✓ It is also important to note that the District Attorney tries family court cases in some states.
- ✓ Finally, the sentencing schemes in many states where 16 and 17 year olds are processed in Family Court are much harsher than the sentences for kids who are processed in New York's criminal courts.

Some of our concerns, without getting bogged down in the details, are:

- ✓ Safety for our communities: The proposal for a dramatic reduction in sentencing for 16 and 17 year olds who are violent offenders threatens the safety of a community.
- ✓ Implications for the fiscal and operational impact on police departments and suspect, victim and officer safety
 - Any reform proposals must take into consideration the safety, operational and fiscal challenges for compliance with laws.
- ✓ Lack of Contact with a Judge: Family Court rules under which these crimes will now be dealt with allow these offenders to never see a judge. Instead, probation officers will be allowed to "adjust" the case away from court by merely referring the offender to a program or even with no consequence at all.
- ✓ Lack of Information: Cases processed in Family Court do not leave a footprint. If the defendant continues their criminal career into their adult years the prosecutor has no way of knowing what types of programs they have been sentenced to, their success in those programs, their criminal history, or any other information that is important for bail, diversion decisions, decisions about orders of protection, and other critical matters.

- ✓ Lack of Evidenced-based Programming: Law Enforcement and District Attorneys have invested massive resources into building and partnering with programs that provide critical addiction, mental health treatment, education, and crime prevention services to young people. Those programs will cease to exist if District Attorneys are no longer a part of the process, and there is no clear plan to replace the funding or the programming that is so important to preventing recidivism in young offenders.
 - That programming is often so successful because it utilizes the reward of a sealed record in exchange for the successful completion of programming, school attendance, or clean living. Without the teeth of the criminal justice system to help motivate the offender, the incentive to meaningfully engage in diversion programs will disappear.
 - If that individual doesn't come into the criminal justice system until their early 20's after several unsuccessful interactions in Family Court, that opportunity for effective diversion programs will come too late.
- ✓ Lack of Victims Considerations: In Family Court, victims and the public are not entitled to access to the proceedings as they occur.
 - There is no victim impact statement, orders of protection are not the same as in criminal court, etc.
 - Victims are not notified when defendant is released in the Family Court system, like they are through VINE in the criminal court system.
- ✓ There are implications that haven't been discussed:
 - SORA implications – won't be registerable
 - Goes against efforts such as reducing college sexual assault. These assailants won't be in database.
 - Also, no fingerprinting or DNA
 - If and when the individual enters adult system, there is no record of juvenile crimes.
- ✓ Custodial interrogations of 16 and 17 year olds, suspected of any crime, violent or not, would require parental notification, presence and Miranda waiver by such parent
 - This would greatly reduce the evidence stream against this defendant and all other accomplices.