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When Children Become Criminals

By THE EDITORIAL BOARD JAN. 19, 2014

New York is one of two states, the other being North Carolina, in which 16-year-olds are automatically tried as adults. This is the case despite overwhelming evidence that sending children into adult courts, rather than the juvenile justice system, needlessly destroys lives and further endangers the public by turning nonviolent youngsters into hardened criminals.

It is past time for New York to bring itself in line with the rest of the country. Gov. Andrew Cuomo took the first step in that direction this month when he announced that he would name a commission and order it to develop a plan by the end of the year for raising the age for adult criminal prosecution. The commission does not need to reinvent the wheel. But it will need to recommend changes in laws and procedures, and in this it can profit from studying Connecticut, which recently carried out raise-the-age legislation of its own.

The New York law came about in 1962, when the state created the juvenile justice system under the Family Court Act. At the time, lawmakers were unable to agree on the age at which offenders should be declared adults; they set it temporarily at 16, pending further hearings. But as often happens with public policy, inertia set in and “temporary” became permanent.

The result is that New York channels nearly 40,000 adolescents a year into the criminal courts — most of them charged with nonviolent crimes like fare-beating in the subways, marijuana possession and shoplifting. The consequences have been especially disastrous for black and Latino young people, who are overrepresented among those arrested and disproportionately at risk of having their lives ruined by encounters with the criminal justice system.

Much has been learned since the 1960s. Federally financed studies, for instance, have shown that minors prosecuted as adults commit more violent



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crimes later on and are more likely to become career criminals than those sent through juvenile courts, where they receive counseling and family support. Beyond that, neurological science has shown that adolescents are less able to assess risks and make the kinds of mature decisions that would keep them out of trouble.

Connecticut wisely adopted a strategy based on rehabilitation, not lockups, reducing arrests and saving the state money. It raised the age of adult criminal prosecution from 16 to 18 in 2007; the change was phased in, taking full effect in 2012. As preparation, the Legislature created a council of experts from law enforcement, mental health and other fields to coordinate policy changes. The courts stopped taking cases involving nonthreatening adolescent misbehavior, like possession of tobacco. The state invested in counseling and intervention programs that allow young people to make amends for minor misdeeds without going to court.

Some good ideas are already in circulation in New York, the result of an earlier commission study. Some of them have been incorporated into a bill submitted to the Legislature by New York State's chief judge, Jonathan Lippman, calling for a special court for 16- and 17-year-olds charged with nonviolent crimes. The new commission may end up supporting a more comprehensive approach in which all but the most serious offenses by anyone under the age of 18 would be handled in juvenile court. In any case, New York is way overdue for change.

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