

RAISE THE AGE

EXTENDING THE RESTORATIVE REACH OF THE JUVENILE JUSTICE SYSTEM FOR YOUNG ADULTS

Recent developments in adolescent psychology have significantly expanded how science understands the connection between brain development and behavior. It is essential to consider these advancements and allow science to inform how the law addresses crime committed by growing young people. In the interest of reducing harm and improving outcomes, this issue brief provides information in support of legislative changes that are consistent with the literature on youth psychological development – a move that is both appropriate and advantageous.

Raising the age of juvenile justice jurisdiction to include young adults convicted of low-level misdemeanors is not an idea that deviates significantly from other recent youth justice reform efforts. More states across the country have supported and implemented Raise the Age (RTA) legislation which has granted juvenile justice system eligibility to young people ages 16 and 17 who had previously been automatically included in the criminal justice system as adults. States that have adopted RTA legislation have reported that the move has been more cost-effective, has not overwhelmed the youth justice system, and the wider variety of age-appropriate services and interventions offers more options and chances for success than the adult system.⁽¹⁾ This is evidenced, in part, by lower recidivism rates for youth in the juvenile system compared to adult. Given the relative proximity of age and maturity of young adults up to age 21, and consistent with evidence provided by adolescent development science, RTA legislation and the associated policies and practices should serve as a model for dealing with young adults age 18 to 21 convicted of low-level crimes.

In addition to benefits offered by the juvenile system, the negative consequences of adult system involvement should be considered. Research has shown that youth involvement in the adult justice system yields less favorable outcomes than involvement in juvenile system. For example, reoffending rates are higher for youth who are transferred to adult court than for similar youth who remain in the juvenile system. The Center for Disease Control found that youth are in fact 34% more likely to be rearrested when subjected to the adult criminal process.⁽²⁾ Not only is the adult system ineffective and even counterproductive in deterring youth from criminal behavior, it is also dangerous. Young people are at higher risk of physical and sexual assault when housed in adult facilities. Even where younger individuals can be segregated from the older general population, the isolation may lead to and/or aggravate mental health issues.⁽³⁾ Adult facilities are not equipped to foster the social and developmental growth of developing young people, which is essential to reduce the chances of reoffending.

In short, if the underlying goal of addressing youth crime through the adult criminal process is to reduce their offending, the adult system is not conducive to that end, and instead makes things worse in several fundamental ways. Especially in the case of non-serious youthful offenders, the state can save money and resources while reducing harm and improving outcomes for young misdemeanants by addressing their crime in the juvenile system. Furthermore, there are several existing juvenile sanction models that already utilize juvenile justice strategies to address delinquency committed by emerging adults. For example, college campuses across the country use alternative sanctions to address offenses committed by their students. Additionally, for half a century, Germany has successfully managed the rehabilitation of young adult offenders under the jurisdiction of their juvenile system. The following page provides detailed information on these innovative models.

Current Juvenile Sanction Models for Young Adults

The German Model of Juvenile Justice

The United States can learn something from the German model of juvenile justice. German prisons emphasize rehabilitation, education, and diversion over punishment and retribution.⁽⁴⁾ They also spend less money on prisons and get better results, with lower crime rates and a recidivism rate half that of the U.S.⁽⁵⁾ As opposed to the U.S., in which some states prosecute children in the adult system, the German juvenile justice system never transfers children to adult court, as the juvenile system caters to children up to age 21, and some can stay in juvenile prisons until age 24.⁽⁶⁾

German prisons aim to mirror the outside world, allowing for a smoother transition back into society and a better chance of staying there. Inmates work minimum wage jobs, are allowed privacy in their cells, go apartment hunting before their release, and express their individuality by decorating their rooms and wearing their own clothes. To ensure their success, each inmate is initially assessed and a personalized plan is created for them, including recommendations for counseling, classes, vocational training, and work assignments.⁽⁷⁾ Following this plan closely rewards inmates with more freedoms and even earlier release. An emphasis on therapy is important here, and a combined model of justice and welfare assists inmates in desisting, or terminating their offending careers.

Campus Response to Misdemeanors⁽⁸⁾

The Process

- Student referred to as *accused student* instead of *misdemeanant* to avoid assumption of guilt
- Disciplinary board panel comprised of 5 individuals-- 3 University faculty/administrators and 2 undergraduates
- Student afforded right to appeal outcome ruling or challenge bias panel member(s)

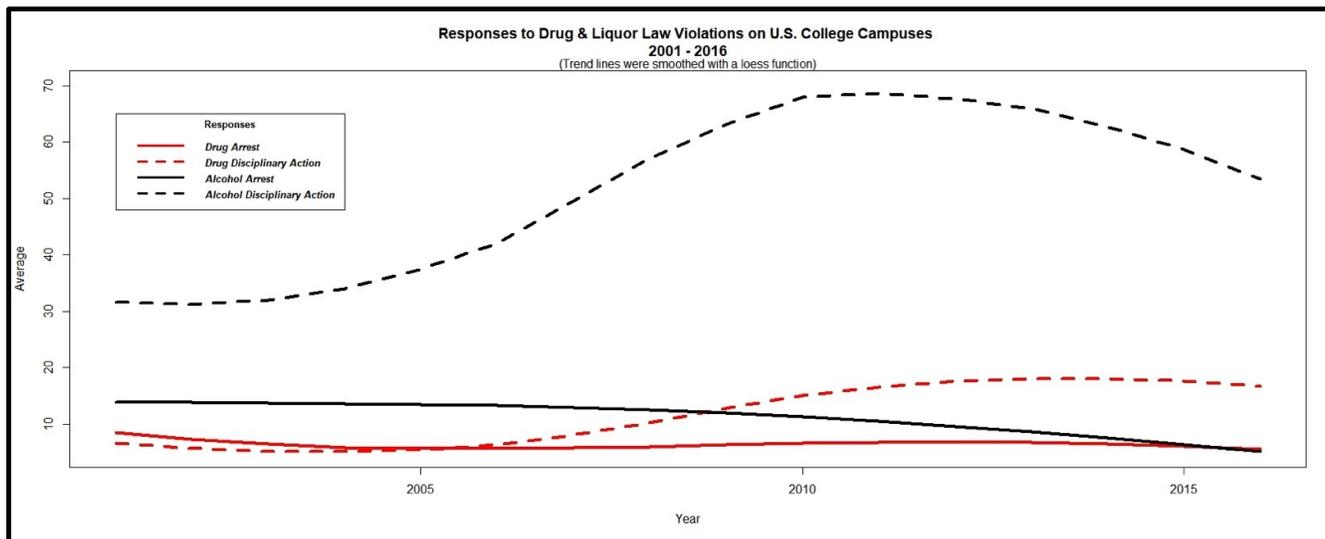
Sanctions

- Sanctions range from letter of reprimand (least severe) to university expulsion (most severe), but more severe sanctions rare
- Sanctions are meant to be educational and promote public safety; sanctions are not punitive. Educational programs, treatment, or counseling may be offered

Protective Factors

- Disciplinary board may postpone hearings if accused student has criminal case to avoid subpoenas that may negatively affect the student.
- Disciplinary board considers students' individual circumstances before imposing any sanction

The disciplinary board mainly deals with first time offenders. Individuals normally do not commit more than one violation. Many of these sanctions allow for students to learn from their mistakes and move on.



The above graph was produced utilizing data collected under the Clery Act, which mandates disclosure of campus safety and crime statistics. It demonstrates that arrests for drug and liquor law violations have remained low as alternative sanctions are being used more frequently.

References

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6. Gonzalez, S. (2016, October 10). Kids in Prison: Germany Has a Different Approach, Better Results. Retrieved March 17, 2018, from <https://www.wnyc.org/story/being-kid-adult>
7. CBS, *supra* 3
8. Though disciplinary boards function similarly across many colleges and universities, the campus model presented here is based on policies enforced at Temple University