A COMMON-SENSE PLAN FOR SAFER COMMUNITIES:

INCLUDE 17-YEAR-OLDS IN JUVENILE COURT
WHAT IS THE LOUISIANA YOUTH JUSTICE COALITION?

The Louisiana Youth Justice Coalition is a network of organizations and individuals who support a legislative and policy agenda for common-sense juvenile justice reform that will curb crime, use taxpayer resources responsibly, and achieve better outcomes for children.

The Louisiana Youth Justice Coalition believes that Louisiana’s juvenile justice system should be built around common-sense values that matter to our state:

SAFE
Our juvenile justice system should curb crime and keep our neighborhoods safe.

COST-EFFECTIVE
Louisiana must use taxpayer funds responsibly. We should use the right tools to help young people behave in positive ways – and we should not waste money on interventions that just do not work.

SMART
Our state cannot be prosperous unless we ensure that our most vulnerable young people are educated and ready for the workforce.

FAIR
We want a juvenile justice system that is fair to every young person -- a system that holds kids accountable while embodying our deepest values about how all people should be treated.

THE MEMBERS OF THE LOUISIANA YOUTH JUSTICE COALITION INCLUDE:

- The Advocacy Center
- Agenda for Children
- American Academy of Pediatrics – Louisiana Chapter
- Blueprint Louisiana
- Boys Town Louisiana
- BreakOut!
- Café Reconcile
- CASA New Orleans
- The Cecil J. Picard Center for Child Development and Lifelong Learning
- The Center for Children and Families
- The Center for Restorative Approaches
- Children’s Bureau
- Citizens for 1 Greater New Orleans
- Communities in Schools
- CORE USA
- The Cowen Institute at Tulane University
- Covenant House of New Orleans
- Crescent Leadership Academy
- Equality Louisiana
- Families Helping Families of Southeast Louisiana
- Foundation for Louisiana
- Grow Dat Youth Farm
- Innocence Project – New Orleans
- Institute for Women and Ethnic Studies
- The Isaiah Institute
- Jesuit Social Research Institute
- Jewish Family Service of Greater New Orleans
- Justice and Accountability Center
- Justice for Families
- Kids Rethink New Orleans Public Schools
- Kingsley House
- The Law Offices of John S. Williams
- Liberty’s Kitchen
- The Louis A. Martinet Society of Greater New Orleans
- Louisiana Association of Criminal Defense Lawyers
- The Louisiana Association of Children and Family Agencies (LACFA)
- Louisiana Budget Project
- Louisiana Campaign for Equal Justice
- Louisiana Center for Children's Rights
- Louisiana Federation of Families for Children's Mental Health
- Louisiana Interchurch Conference
- Louisiana Partnership for Children and Families
- Louisiana Progress
- Louisiana School Psychological Association
- Louisianachildren.org
- Mental Health America of Louisiana
- The Micah Project
- NAMI Louisiana (National Alliance on Mental Illness – Louisiana)
- National Association of Social Workers – Louisiana Chapter
- National Council of Jewish Women – New Orleans
- New Schools for New Orleans
- One Voice Louisiana
- Orleans PlaceMatters
- Orleans Public Education Network
- The Orleans Public Defenders
- The Promise of Justice Initiative
- Pyramid Community Parent Resource Center
- The R Street Institute
- SEIU Local 21 LA
- Southern Poverty Law Center
- Total Community Action
- Urban League of Greater New Orleans
- VAYLA New Orleans
- Women with a Vision
- Youth Empowerment Project
EXECUTIVE SUMMARY
In Louisiana, as with other states, adulthood usually means 18. Seventeen-year-olds cannot vote, serve on juries, join the army, or buy a lottery ticket. There is only one exception: Kids are automatically charged, jailed, and imprisoned as adults the day they turn 17, regardless of their offense. Their arrests and convictions are then public record – making it much harder for them to enlist in the military, obtain a job, or even get an education. They are set up to fail before they have even gotten started.

This report argues that Louisiana should join 41 other states – including our neighbors in Mississippi and Alabama – in raising the age of juvenile jurisdiction to 18. Including 17-year-olds in our juvenile justice system is safe, smart, cost-effective, and fair.

Excluding 17-year-olds from the juvenile justice system does not improve public safety. Research shows that prosecuting youth as adults increases recidivism by as much as 34%. Here in Louisiana, the recidivism rate for youth admitted to the adult corrections system at age 17 is more than double the recidivism rate for youth placed in juvenile custody at a similar age. The juvenile justice system is specifically designed to hold youth accountable in age-appropriate settings and provide the rehabilitative services youth need to develop into law-abiding, successful adults.

Raising the age would not prevent district attorneys from prosecuting 17-year-olds as adults if they are charged with serious offenses. Under current law, prosecutors have complete discretion to prosecute 15- and 16-year-olds as adults if they are charged with offenses ranging from violent acts to possessing drugs with intent to distribute. Louisiana could extend that discretion to include 17-year-olds as well. But the vast majority of 17-year-olds involved in the justice system are charged with minor, nonviolent offenses. The Louisiana Commission on Law Enforcement reports that only 6.7% of 17-year-olds arrested in 2012 – the most recent year for which statewide data is available – were charged with violent crimes.

When young people break the law, they should be held accountable. It is imperative that youth understand the consequences of their actions, and it is just for the sake of those harmed. Holding youth accountable also helps young people grow and fosters positive development over the long term. At the same time, we know that all people are capable of change, and this is especially true of adolescents. Adolescents allowed the opportunity for rehabilitation will be less likely to make poor choices in the future.
RAISING THE AGE IS SMART

Prosecuting 17-year-olds as adults hampers their ability to obtain an education, provide for themselves in the future, and contribute to the workforce. Even if a 17-year-old is not convicted, adult arrests are public record and can create barriers to any number of opportunities, including enlisting in the military. Adult convictions shut the door on even more opportunities, such as obtaining student loans or certifications that are required for employment in Louisiana’s biggest industries. And we need youth to stay on track for the workforce – Louisiana needs 250,000 trained workers to meet the demand created by $60 billion worth of new economic projects coming to our state. Unemployment is a major contributing factor to recidivism. The stigma of an arrest record makes finding employment after re-entry significantly more difficult. Louisiana cannot afford to burden youth with public arrest records and convictions before they have even had a chance to become independent adults.

RAISING THE AGE IS COST EFFECTIVE

Excluding 17-year-olds from the juvenile justice system is costly in both the short term and the long term. Louisiana taxpayers and communities pay a high price to hold children in adult jails, and the increased recidivism that comes with prosecuting youth as adults is expensive.

Removing 17-year-olds from adult jails would protect sheriffs from the costs and liability associated with housing youth and adults together. Federal law requires complete “sight and sound” separation between youth under eighteen and adults in adult correctional facilities. But most of our jails were not designed for that kind of separation, so costly retrofitting or new construction may be required to bring the jails in compliance with federal law.

Meanwhile, states that raised the age in recent years have downsized their juvenile justice systems and lowered short-term and long-term costs. Four years after Connecticut raised the age, the state has seen a 51% drop in the number of 18- to 21-year-olds admitted to state prisons. The Governor’s Office estimates this drop saves the state at least $58.3 million each year.
Raising the age would protect the right of parents to be involved in their children’s court cases. When 17-year-olds are arrested as adults, their parents do not need to be informed of the arrest and do not have a right to be involved in court cases. In the juvenile system, parents are an integral part of the process, and they have the right to be informed of what is happening with their children’s cases. Parental involvement is not just better for families – it is also better for public safety. Parental or family involvement in juvenile proceedings has been shown to improve youth outcomes, including recidivism rates.\textsuperscript{x}i

We can bring 17-year-olds into the juvenile justice system in Louisiana with minimal cost. A report released this month by the nonpartisan Institute for Public Health and Justice at LSU demonstrates that our local detention centers, juvenile prisons, and probation systems already have the capacity to accommodate 17-year-olds.\textsuperscript{x}i Louisiana, like much of the rest of the country, has seen significant decreases in juvenile offending over the last 15 years. Caseloads in our juvenile courts and populations in our juvenile facilities have shrunk accordingly. If needed, we can create further capacity through policy change and by broadening and deepening current reform efforts across the state.

There is a growing, bipartisan recognition that Louisiana needs to reform its criminal and juvenile justice systems. Those reforms can begin with bringing 17-year-olds into the justice system that is best equipped to meet their unique needs and ensures they can become productive, law-abiding adults. Most Louisianans agree: two-thirds of voters polled, and a majority of both parties, think that 17-year-olds should be included in the juvenile justice system. It is time for Louisiana to raise the age. In 2016, Louisiana should:

- **Pass a bill to raise the age.** Louisiana should pass a law raising the age of juvenile jurisdiction from 16 to 17. This means holding youth accountable in age-appropriate settings by making the juvenile justice system the default for 17-year-olds. The law should be timed to take effect in July of 2017.

- **Allow time for thoughtful implementation.** The legislature should convene a commission to oversee full implementation of raise the age by July 1, 2017. To ensure the most cost-effective transition and avoid potential upfront costs of raising the age, Louisiana should identify ways in which we can take common-sense steps to right-size our system and reduce any unnecessary reliance on expensive residential facilities.
INTRODUCTION
Louisiana is one of only nine states that exclude all 17-year-olds from the juvenile justice system—even for the most minor, nonviolent offenses. That policy hurts public safety, wastes public dollars, and leads to worse outcomes for our kids. This report explains why raising the age of juvenile jurisdiction is right for Louisiana.

The first half of this report explains how raising the age will:

- Improve public safety and promote better outcomes for youth who get into trouble with the law by holding them accountable for their actions in age-appropriate ways;
- Stave off the need for costly jail renovations and shield our sheriffs from liability;
- Protect youth from the dangers posed by incarceration in adult facilities;
- Ensure parents have the right to participate in their children’s court cases; and
- Update our laws to be consistent with the consensus of scientific research on criminal justice.

The second half of the report will demonstrate that Louisiana can raise the age with minimal short-term costs, and without new capacity-building in our juvenile justice system. All available evidence from other states suggests that raising the age will not generate significant new juvenile justice costs, and is likely to create meaningful cost savings as a result of decreased recidivism. Louisiana already has the infrastructure to absorb 17-year-olds in the juvenile system, and we have the tools to create additional capacity if necessary.

Finally, this report will conclude with a set of recommendations to raise the age in Louisiana, beginning with the passage of a bill in 2016.
LOUISIANA
SHOULD
RAISE
THE
AGE
LOUISIANA IS OUT OF STEP WITH OUR SISTER STATES.
According to almost every measure available, society defines adulthood as beginning at 18. Nationwide, a 17-year-old cannot purchase cigarettes because they are not mature enough to make a potentially life-threatening decision. A 17-year-old literally cannot be tried by a jury of his peers, since 17-year-olds are not permitted to serve on juries. And 17-year-olds are still safeguarded by child protection laws that define adulthood at 18. That common, and common-sense, understanding of adulthood as beginning at 18 is why 41 states include 17-year-olds in their juvenile justice systems. Louisiana is one of the few states that does not. But in prosecuting all 17-year-olds as adults, regardless of the offense, Louisiana is way behind the curve.

Raising the upper age limit of juvenile jurisdiction in Louisiana would bring the state in line with federal and international standards and ethical norms:

- The Federal Juvenile Delinquency Act defines juvenile delinquency as “the violation of a law of the United States committed by a person prior to his 18th birthday which would have been a crime if committed by an adult.”

- The federal Prison Rape Elimination Act clearly defines adults as those over the age of 18, and requires specific protections for youth under 18 in adult correctional facilities.

- In April of 2014, the United Nations Human Rights Committee raised concerns about the exclusion of youth under 18 from the juvenile justice systems in certain states, and recommended changing the laws in these states to raise the age of juvenile jurisdiction nationwide, thereby bringing the United States into accordance with the rest of the world.

- Pope Francis has also advocated compassion for youth involved in the criminal justice system, stating in October 2014 that “[adolescents] have not fully developed to maturity and for this reason cannot be held responsible. They must instead benefit from all the privileges that the State is capable of offering, regarding policies of inclusion as much as practices directed at developing in them respect for life and for the rights of others.”

- The White House supports the inclusion of all youth under 18 in the juvenile justice system:

  “IN KEEPING WITH THE PRESIDENT’S CALL FOR A MORE FAIR AND EFFECTIVE JUSTICE SYSTEM, THIS ADMINISTRATION IS SUPPORTIVE OF EFFORTS BY A GROWING NUMBER OF STATES TO RAISE THE AGE OF CRIMINAL RESPONSIBILITY AND GIVE GREATER OPPORTUNITIES FOR TEENAGE OFFENDERS TO OVERCOME YOUTHFUL MISTAKES AND EARN THEIR SECOND CHANCE. WE KNOW THAT MANY OF US MADE MISTAKES AS KIDS BUT MOST OF US WERE IN FORGIVING ENVIRONMENTS. ONCE A KID IS LABELED A CRIMINAL, IT IS VERY DIFFICULT FOR HIM OR HER TO ESCAPE THE STIGMA AND TO REACH HIS OR HER FULL POTENTIAL. IT DOES NOT MAKE SENSE TO TREAT ALL 16- AND 17-YEAR-OLDS AS ADULTS WHEN THE SCIENCE AND OUR OWN COMMON SENSE TELLS US THAT THAT IS TOO EARLY.”

--ROY L. AUSTIN, JR., DEPUTY ASSISTANT TO THE PRESIDENT, OFFICE OF URBAN AFFAIRS, JUSTICE AND OPPORTUNITY, DOMESTIC POLICY COUNCIL
Both Republicans and Democrats have embraced raising the age. Conservative groups have partnered with justice reform advocates at the state and national level in support of making the juvenile justice system the default for all youth under 18.

- In January 2016, the American Legislative Exchange Council approved a model resolution in support of raise the age, stating, “Research has found that 17-year-olds are less likely to recidivate when placed in the juvenile system, which generally provides smaller caseloads, greater access to rehabilitation, and closer collaboration with families and schools.”

- In March 2015, former Republican Speaker of the House Newt Gingrich published an editorial in the New York Post, calling on New York State to raise the age of criminal responsibility from 16 to 18, citing increased recidivism in the adult system, which not only makes us less safe, but has enormous costs for society.

- The Texas Public Policy Foundation, a research institute guided by the principles of liberty, personal responsibility, and free enterprise, supports efforts to raise the age in Texas and across the nation. Marc Levin, executive director of the Center for Effective Justice at TPPF stated, “Studies have proven the juvenile justice [system] is also more effective in reducing recidivism among 17 year-olds, partly because it works closely with the family and high schools.” TPPF also published a joint report recommending Raise the Age with the MacIver Institute, TPPF’s counterpart in Wisconsin.

- The R Street Institute, a conservative public policy research organization with offices across the country, supports raising the age in Louisiana. According to R Street President Eli Lehrer, “Nothing good is accomplished when the government throws children in adult jails. A fair, responsible, and moral justice system that conforms with conservative principles should treat kids like kids. Raising the age in Louisiana is the responsible, conservative thing to do.”

- Across political party, race, gender, age and income level, two thirds of Louisiana voters support raising the age, according to a survey conducted by the LSU Public Policy Research Lab on behalf of the Power Coalition 2015 People’s Survey.

“If you put a 12-year-old in college. Do you expect him to graduate?”

– S.S., incarcerated youth at Louisiana’s Dixon Correctional Institution
Indeed, across the country, all of the remaining outlier states that still prosecute all 17-year-olds as adults have launched a movement to join the mainstream by raising the age. Texas, Michigan, North Carolina, New York, Wisconsin, and Missouri have all introduced Raise the Age bills in their state legislatures in recent years. It is time for Louisiana to follow suit.

More and more states are changing their laws to include 17-year-olds in the juvenile justice system:

- Since 2009, five states (Mississippi, Illinois, Massachusetts, Connecticut, and New Hampshire) have raised their upper juvenile age limit to 17.\textsuperscript{xviii}

- In 2007, Rhode Island briefly lowered the age, on the incorrect assumption it could be a cost saving measure, but the state reversed the decision only four months later when it ultimately proved not to reduce costs, but increased them significantly.\textsuperscript{xx}

- Alabama raised the age in 1977.\textsuperscript{xx}

Indeed, across the country, all of the remaining outlier states that still prosecute all 17-year-olds as adults have launched a movement to join the mainstream by raising the age. Texas, Michigan, North Carolina, New York, Wisconsin, and Missouri have all introduced Raise the Age bills in their state legislatures in recent years. It is time for Louisiana to follow suit.

\textit{“Even if they are accused of a crime, children need protection – they are not adults. No law can make them adults.”}

–Mother of S.S.
RAISE THE AGE IS SAFE
Raising the age will improve public safety. The federal Centers for Disease Control and Prevention reports that prosecuting youth as adults increases recidivism by as much as 34%. xxvii

This is due to many factors, including:

- Stigma and collateral consequences. xxviii
  The negative effects of labeling young people as convicted felons makes it more difficult for them to be included in productive efforts such as employment and schooling upon re-entry. Collateral consequences may also include, for example, limited access to jobs, the loss of school loans, or eviction from public housing.

- Exposure to more hardened or sophisticated criminal thinking while incarcerated with adult offenders.
  This exposure can make youth more likely to commit crimes in the future. xxx

- The lessened focus on rehabilitation and family involvement in the adult system.
  A focus on therapeutic programs and increased judicial engagement in the juvenile system allow youth opportunities to develop in positive ways with supportive guidance, as well as receive necessary resources (such as mental health care) that would help them avoid re-offending. xxx

While conventional thinking may be that the harsher punishments of the adult system are a better response to criminal behavior by older adolescents, these punishments do not appear to have the desired effect. Juvenile courts are simply more effective at holding youth accountable and preventing future criminality. xxxi

Furthermore, there is no evidence that prosecuting youth as adults has any deterrent effect on crime. xxxi One study compared youth arrested for robbery in New York, where adult prosecution begins at 16, to youth charged with robbery in New Jersey, where youth remain in the juvenile system until age 18. Both areas shared similar demographic and socioeconomic characteristics. The study found that the youth who remained in the juvenile system were 20% less likely to be re-arrested. Youth who were prosecuted in the criminal justice system were also re-arrested after a shorter period of time, and more frequently. Recidivism increased for youth in the adult system regardless of whether they were sentenced to probation or corrections; however, youth who were incarcerated as adults had the highest recidivism rates. xxxii

<table>
<thead>
<tr>
<th>ARREST CHARGE</th>
<th>#</th>
<th>%</th>
</tr>
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<tbody>
<tr>
<td>VIOLENT CRIME INDEX</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MURDER / NON NEG MANSL</td>
<td>16</td>
<td>0.3%</td>
</tr>
<tr>
<td>FORCIBLE RAPE</td>
<td>8</td>
<td>0.2%</td>
</tr>
<tr>
<td>ROBBERY</td>
<td>116</td>
<td>2.2%</td>
</tr>
<tr>
<td>AGGRAVATED ASSAULT</td>
<td>205</td>
<td>3.9%</td>
</tr>
<tr>
<td>PROPERTY CRIME INDEX</td>
<td>1498</td>
<td>28.5%</td>
</tr>
<tr>
<td>BURGLARY / BREAKING OR ENTERING</td>
<td>340</td>
<td>6.5%</td>
</tr>
<tr>
<td>LARCENY / THEFT</td>
<td>1105</td>
<td>21%</td>
</tr>
<tr>
<td>MOTOR VEHICLE THEFT</td>
<td>43</td>
<td>0.8%</td>
</tr>
<tr>
<td>ARSON</td>
<td>10</td>
<td>0.2%</td>
</tr>
<tr>
<td>OTHER</td>
<td>3404</td>
<td>64.8%</td>
</tr>
<tr>
<td>OTHER ASSAULT</td>
<td>698</td>
<td>13.2%</td>
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<tr>
<td>WEAPONS (CARRYING, POSSESSION)</td>
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<td>SEX OFFENSES (EXCEPT RAPE &amp; PROST)</td>
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<td>0.7%</td>
</tr>
<tr>
<td>DRUG POSSESSION</td>
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<td>DRUG SALES / MANUFACTURING</td>
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<td>DISORDERLY CONDUCT</td>
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<tr>
<td>ALL OTHER</td>
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<td>24.8%</td>
</tr>
<tr>
<td>GRAND TOTAL</td>
<td>5253</td>
<td>100%</td>
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</tbody>
</table>

Raising the age of juvenile jurisdiction would not prevent district attorneys in Louisiana from using their discretion to prosecute serious youthful offenders as adults. But the vast majority of 17-year-olds in Louisiana’s justice system are charged with non-violent offenses. Only 6.7% of all 17-year-old arrests were for allegations of violent crimes, according to the most recent data available from the
Raising the age will keep our children safer by keeping them out of adult correctional facilities. Children in adult jails and prisons are in serious danger of victimization and death. The national data is frightening, showing that youth held in adult custody are:

**At great risk of sexual assault:** According to a report from the National Prison Rape Elimination Commission, young people incarcerated with adults are the most at-risk group for sexual assault while in confinement. A report from the U.S. Department of Justice found that, in 2005, youth under 18 accounted for 21% of all victims of sexual violence perpetrated by other inmates in jails, despite the fact that these youth only represented 1% of the population. This disproportionate risk is in part because corrections officers in adult prisons are not trained to work with children or keep them safe.

**At great risk of physical assault:** Children in adult jails are twice as likely as adults to report being beaten or abused by prison guards, and are 50% more likely to report being attacked by adult inmates with a weapon.

**At a significantly increased risk of suicide:** According to the federal Bureau of Justice Statistics, youth under 18 had the highest suicide rate of all jail inmates – 101 per 100,000 compared to 5.32 per 100,000 for youth 14-17 not in jail during the same time period. Based on the data provided by BJS, youth in adult jails are 19 times more likely to commit suicide than adult inmates and 36 times more likely to commit suicide than youth held in juvenile facilities. Relatedly, youth in adult facilities are less likely to have access to age-appropriate mental health services and mental health staff trained specifically to work with youth.

The risk of youth suicide in adult custody is neither remote nor academic. In October of 2014, a 16-year-old child being held in adult custody while awaiting trial in Iberia Parish committed suicide. He was being held in isolation. And the entire country recoiled in horror at the suicide of Kalief Browder, who was arrested at 16 and detained for three years as an adult at the Riker’s Island jail in New York City before having all charges against him dropped.

**Often held in isolation for long periods of time:** The federal Prison Rape Elimination Act requires that jails confine youth separately from adult inmates for their own protection. But in doing so, these youth are often placed in conditions similar to solitary confinement – kept on lock down for 23-24 hours a day in tiny, windowless cells, without any contact with other prisoners and very little meaningful contact with staff. Even short periods under these conditions can lead to paranoia, anxiety, and depression.

**Often deprived of an education:** Nationally, jails fail to meet their legal obligation to provide education for youth in their care. A Justice Department survey found that 40% of jails did not provide any educational services at all, only 11% provided special education services, and just 7% provided vocational training.
Louisiana Commission on Law Enforcement (See Table 1). And more than 80% of Criminal District Court dispositions involving 17-year-olds in 2014 were for nonviolent felonies, misdemeanors, or very minor offenses such as fishing or hunting violations (See Table 2). Less than 10% of dispositions involved offenses that would be subject to Louisiana’s transfer provision if the defendants were in the juvenile justice system. The vast majority of 17-year-olds facing criminal court prosecutions in Louisiana are not accused of serious, violent offenses.

The juvenile justice system can effectively hold youth accountable when they break the law. Juvenile probation often requires participation in intensive services, with regular check-ins in front of a judge, even for minor misdemeanors. Parents are part of the process, and can be held in contempt for failing to participate in their child’s treatment or supervision. And Louisiana law allows for youth to be under the care, custody or supervision of the juvenile justice system until age 21 for incidents that occur prior to age 17, which means 16-year-olds in the juvenile justice system can receive sentences of up to five years. This is comparable to what they would receive in the adult system – the average sentence length for 17-year-olds sentenced to the Louisiana Department of Corrections in 2014 was 63 months.

Furthermore, in the juvenile system, the judge has oversight of a delinquency case after it has gone to disposition (the juvenile equivalent of sentencing), until the case is fully closed. Not only does that extended jurisdiction allow judges to monitor progress to ensure rehabilitation, but it also provides an opportunity to modify the sentence – including imposing new conditions on probation – at any time. In fact, the only way to earn parole in Louisiana’s juvenile justice system is for a judge to modify the original sentence and authorize early release. After release, the young person is under parole supervision, but unlike in the adult system, he continues to report to the judge. Due to this extended judicial oversight, the juvenile system is uniquely equipped to hold youth accountable even after they return home from confinement.
RAISE THE AGE IS COST-EFFECTIVE
The federal Prison Rape Elimination Act requires that jails confine youth separately from adult inmates. This “sight and sound” separation was legislated specifically because of the great risk children face when they are incarcerated in adult facilities. Even though Louisiana defines 17-year-olds as adults for the purposes of criminal prosecution, under PREA no youth under 18 may be housed with adults. They cannot participate in programming with adults, and they cannot encounter adults when they move throughout correctional facilities. Failure to comply with PREA may result in the loss of federal funds, and creates liability for sheriffs and the Department of Corrections.

In general, the population of youth under 18 in Louisiana’s jails and prisons is small, which makes it much more difficult to provide accommodations in compliance with PREA. Three of Louisiana’s largest urban jurisdictions held an average of 23 youth under 18 in their jails on a given September day in 2015: 18 in Caddo Parish, 23 in Jefferson Parish, and 31 in Orleans Parish. In rural jurisdictions, there are only a handful of youth, if any, requiring complete and total separation from the rest of the population on a given day. The Louisiana Department of Corrections reported only 26 youth under 18 in state prisons on March 31, 2015.

In a survey of public defenders around the state, 80% of respondents reported that youth encounter adults when they are housed in adult jails. These encounters occur not only during meal time, programming, or other activities outside of their cells, but also while they are in their cells. According to one Lafayette public defender, the Lafayette Parish Correctional Center does attempt to house youth separately, but are unable to keep them separated from adults during recreation and transportation to court. Furthermore, if there are fights on the youth tier; children may be separated by being moved to other parts of the facility and housed with adults.

Rob Reardon, Director of the Corrections Division in the Lafayette Parish Sheriff’s Office, agreed that housing children under 18 has created an enormous operational challenge. The problem stems from the jail’s small youth population and from the facility itself, which is not set up to provide the appropriate services.

“At Lafayette Parish Correctional Center, our smallest unit is four [cells], but the vast majority [of units] hold 33 inmates. If we have more than four juveniles, we end up having to move them into a much larger unit and it’s problematic in all sorts of ways,” Reardon reports. Even housing youth in the four-bed units poses problems due to their design as special management units, reserved for inmates that need protective custody or special services.

On November 16, 2015, LPCC had eight youth under 18 in custody. At the same time, Reardon reported that fewer than half the beds at the Lafayette Parish juvenile detention center were in use on any given day.

According to Reardon, rural parishes in particular are likely to struggle with the challenges of holding youth in their jails:

“In smaller parishes this problem has to be magnified. LPCC’s total capacity is 954, and we are at about 870 [inmates] right now. Smaller facilities have a much bigger challenge and it’s magnified with providing programming too. They may not have school teachers. We do, but the curriculum we’re teaching is Hi-Set; we’re
not teaching high school. The [juvenile] detention facility locally has high school teachers, and they’re getting the information directly from the school system about where the kids are educationally, and they’re educating them appropriately.”

Reardon stated that he would prefer if youth under 18 were not housed in his jail, and he believes that raising the age is one way to make that happen: “We’re fully supportive of the movement to raise the age…The difficulties associated with housing those individuals in an adult facility are great, and it would be much more beneficial to house them in a juvenile facility.”

Ensuring compliance with PREA, and providing age-appropriate programming and disciplinary procedures places a burden on our sheriffs and the DOC. But there is a solution that does not require expensive retrofitting or construction of separate facilities for youth in the adult system: bringing 17-year-olds into the juvenile system, where they will be placed in facilities with youth their own age, and where staff are already trained and well-equipped to handle the unique needs of adolescents.
RAISE THE AGE GENERATES SAVINGS

States that have raised the age in recent years have seen reductions in the size and cost of their juvenile justice systems as well as better outcomes for youth and improvements in public safety.

In Connecticut, prior to 2010, the upper age limit of the juvenile system was just 15. The state passed legislation establishing a phased transition, first bringing 16-year-olds into the juvenile system in 2010, then bringing 17-year-olds in by 2012. The results are impressive:

- The costs of implementation were far lower than originally anticipated, and by the end of 2010, juvenile arrests were already down 16% from 2009.

- By the end of 2012, when both 16- and 17-year-olds had returned to the juvenile system, juvenile arrests had dropped 37%, and the state’s overall juvenile justice expenditures were lower than they had been prior to raising the age.\(^{lxii}\)

- Sixteen and 17-year-olds proved to be more successful in juvenile system interventions and less likely to be re-arrested than their younger peers.\(^{lxii}\)

TABLE THREE

CHANGE IN SIZE OF CT PRISON POPULATION BY AGE GROUP, JULY 1 SNAPSHOT\(^{lxv}\)

<table>
<thead>
<tr>
<th>AGE</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>% CHANGE</th>
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<tbody>
<tr>
<td>&lt;16</td>
<td>25</td>
<td>10</td>
<td>9</td>
<td>15</td>
<td>8</td>
<td>11</td>
<td>17</td>
<td>-32%</td>
</tr>
<tr>
<td>16-17</td>
<td>307</td>
<td>207</td>
<td>152</td>
<td>136</td>
<td>92</td>
<td>61</td>
<td>65</td>
<td>-79%</td>
</tr>
<tr>
<td>18-21</td>
<td>2,067</td>
<td>1,952</td>
<td>1,732</td>
<td>1,510</td>
<td>1,391</td>
<td>1,167</td>
<td>1,011</td>
<td>-51%</td>
</tr>
<tr>
<td>22-29</td>
<td>5,498</td>
<td>5,413</td>
<td>5,120</td>
<td>4,802</td>
<td>4,894</td>
<td>4,740</td>
<td>4,573</td>
<td>-17%</td>
</tr>
<tr>
<td>30-39</td>
<td>5,446</td>
<td>5,235</td>
<td>4,750</td>
<td>4,750</td>
<td>4,927</td>
<td>4,981</td>
<td>4,929</td>
<td>-9%</td>
</tr>
<tr>
<td>&gt;40</td>
<td>5,548</td>
<td>5,614</td>
<td>5,681</td>
<td>5,378</td>
<td>5,676</td>
<td>5,591</td>
<td>5,430</td>
<td>-2%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>18,891</td>
<td>18,431</td>
<td>17,631</td>
<td>16,591</td>
<td>16,988</td>
<td>16,551</td>
<td>16,025</td>
<td>-15%</td>
</tr>
</tbody>
</table>

The Governor’s Office in Connecticut says that raising the age is one reason the state has seen an enormous decline in the number of 18- to 21-year-olds in state prisons (see Table 3). In an address on November 6, 2015, Governor Dannel P. Malloy stated, “The best evidence of the success of Raise the Age is what has happened to young adults as they age out of the juvenile system. The number of inmates in a correctional facility between the ages of 18 and 21 is at its lowest in more than a quarter-century. It’s down 51% over the last six years – and still dropping.”\(^{lxiii}\) The Governor’s Office estimates that raising the age is one reason the state is now saving more than $58 million annually.\(^{lxiv}\)
When the 'Raise the Age' process began, some said that it would cost millions of dollars and overwhelm the juvenile courts with all of the new cases for 16- and 17-year-olds. Here’s the reality. ‘Raise the Age’ resulted in a significant decrease in the number of cases. And today I am proud to report that:

We now have the lowest number of juveniles in pre-trial detention.

We now have the lowest ever population at the Connecticut juvenile training school.

The number of inmates under the age of 18 at Manson youth institute is also at its lowest ever. Down 75% since 2009.

The best evidence of the success of Raise the Age is what has happened to young adults as they age out of the juvenile system. The number of inmates in a correctional facility between the ages of 18 and 21 is at its lowest in more than a quarter-century. It’s down 51% over the last six years – and still dropping.

--Connecticut Governor Dannel P. Malloy
With no money allocated upfront for the costs of implementation, the state of Illinois raised the age first for youth charged with misdemeanors in 2010, and then for youth charged with felonies in 2014.\textsuperscript{lxvi}

- After implementing the first phase of raising the age, Illinois saw record declines in the number of youth coming into the juvenile justice system. Arrests dropped 24%, the number of youth held in short-term detention facilities fell 18%, and youth prison populations dropped 22%.\textsuperscript{lxvii}

- At the end of 2014, after full implementation of raise the age, detention center populations are still lower than they were in 2009, and the number of youth in state facilities is down 35%.\textsuperscript{lxviii} Since raising the age, Illinois has closed one detention center and two youth prisons.\textsuperscript{lxix}

"'RAISE THE AGE' HAS PROVEN TO BE GOOD FISCAL AND PUBLIC SAFETY POLICY. CONCERNS ABOUT LARGE NUMBERS OF OLDER JUVENILES AND THEIR ASSOCIATED COSTS STRAINING JUVENILE JUSTICE SYSTEMS HAVE NOT COME TO PASS, AND JUVENILE CRIME HAS CONTINUED TO DECLINE."

—THE CAMPAIGN FOR YOUTH JUSTICE
RAISE THE AGE IS SMART
When 17-year-olds are prosecuted as adults, their chances of building the necessary foundation for a productive, law-abiding future are diminished. Adult arrests and convictions can create a multitude of obstacles for young people just starting out in life.

Youth with adult convictions may be unable to benefit from student loans. In Louisiana, youth may not obtain educational benefits from the Louisiana Office of Student Financial Assistance if they have any criminal convictions, including misdemeanors. This is problematic because higher levels of education mean higher lifetime earnings and greater likelihood of employment. And research has shown that states with higher levels of educational attainment have lower violent crime rates than the national average.

Adult convictions prevent youth from joining the workforce. Louisiana needs more workers – $60 billion in new economic projects are coming to Louisiana, and we need 250,000 trained workers to meet that demand. But certain adult convictions can prevent individuals from obtaining the certification necessary for a job in this industry. And adult arrests and convictions are public record, which may hamper an individual’s ability to obtain a job in any industry. Reoffenses are three times more likely for unemployed ex-offenders than for those who have a job.

**EDUCATION**

- Youth may not obtain educational benefits from the Louisiana Office of Student Financial Assistance if they have any criminal convictions, including misdemeanors.
- Individuals who receive federal student loans and who are convicted of any drug offense are barred from receiving any future funds for a period of time set by law, and must repay immediately any aid received following the conviction.
- Background checks may be required for certain degree programs, and postsecondary educational institutions may bar individuals from admission based on their criminal history.

**JOBS**

- Certain convictions, including felony drug convictions, can prevent an individual from applying for a Transportation Worker Identification Credential card for seven years.
- Some licensing boards are required to revoke licenses after a conviction, even for a misdemeanor.
- Adult arrests and convictions are public record and must be disclosed if requested by any potential employers.
When “Michael” was 17-years-old, he got into an altercation with a man that his mother was dating. His mother called the police, and Michael was arrested and booked at the Parish jail. The court automatically issued a stay-away order, which is the standard practice in District Court. The stay-away order prevented him from returning to his home, but because Michael was a minor and completely dependent on his mother, he had nowhere to stay if he was released. The judge refused to release him on his own recognizance, and set a high bond. Michael’s mother was willing and able to post bond if it were reduced, but the judge would not reduce the bond without assurance that he had a place to stay. So, Michael remained in jail for approximately five months until he ultimately pled guilty to the misdemeanor offenses with which he was charged, and was sentenced to adult probation.

Michael was on track to graduate high school before he was arrested, but after spending five months in jail − where he was unable to earn high school credits − he fell very far behind. According to his attorney, this educational disruption was incredibly detrimental: “Getting so far behind in high school that you would have to start the year over with younger children makes it so much less likely that a child will graduate, unless they have a very supportive home life with highly involved and motivated parents. If [Michael] had a home life like that, he likely would never have been in [jail] in the first place.”

Michael’s attorney also believes that spending five months in jail during one of the most formative years of his life stunted his emotional development irreparably. Trying to survive in jail and avoid being victimized meant being forced to grow up more quickly, try to appear “manly,” and avoid showing emotion.

If Michael had been charged as a juvenile, the judge would not have automatically issued a stay-away order, and he could have returned home while his case was pending. Even if he had remained in detention during that time, he would have received daily education and earned high school credits. He would have had access to counselors and been in the care of professionals who are specifically trained to work with adolescents. Instead, he lost almost a year of adolescence – permanently halting his development and severely diminishing his chances at finishing school and joining the workforce.
HOUSING

- In Louisiana, every person convicted of a felony or misdemeanor offense, along with his or her entire household, may be evicted or barred permanently from public housing or Section 8 properties. Entire families can be displaced as a result of even minor offenses committed by a 17-year-old child.\textsuperscript{lxxxii}

PARENTING

- Some 17-year-olds may already be parents. In Louisiana, parental rights can be terminated for failure to communicate with a child for 6 months, or if the parent fails to comply with a Department of Children & Family Services case plan for one year, even if the parent is in jail during that time.\textsuperscript{xxxiii} Since cases generally move more quickly through the juvenile system, youth in the adult system are more likely to be incarcerated for six months to a year before they are even convicted.

- Parental rights may also be terminated if the child is placed in the custody of DCFS and the parent has been convicted of a crime and sentenced to “a period of incarceration of such duration that the parent will not be able to care for the child for an extended period of time” and where the parent is unable to come up with a “reasonable plan” for the child other than foster care.\textsuperscript{xxxiv} Youth may be more likely to receive sentences that meet these criteria in the adult system than the juvenile system.
RAISE THE AGE IS FAIR

#RAISETHEAGELA
Because the Louisiana criminal justice system considers 17-year-olds adults, there is no obligation to notify their parents of an arrest. Parents do not have a right to be involved in the court cases of their 17-year-old children, even though they are still considered minors under every other aspect of the law. In the juvenile justice system, parents are a critical part of the process, and they have the right to be informed of what is happening with their children’s cases. And this right extends until the young person is 21-years-old – Louisiana law extends juvenile jurisdiction to 21 for incidents that occurred prior to the individual's 17th birthday. Not only is parental involvement better for families, it is also better for public safety. Parental or family involvement in juvenile proceedings has been shown to improve youth outcomes.

Raising the age will bring Louisiana law into line with what we now know about young people’s development, based on decades of research on the adolescent brain. A comprehensive body of research demonstrates unequivocally that children and adolescents are different from adults in important biological ways, and that these differences should be reflected in our criminal justice policies and practices.

This research points to a guiding principle – the distinction between youth and adults is not simply one of age, but one of biology. This distinction impacts motivation, impulse control, and judgment. From puberty through adolescence, until as late as age 25, the prefrontal cortex of the brain is still developing. This area of the brain governs the main functions of reasoning, advanced thought, and impulse control, all of which factor heavily into decision making.

Research shows that puberty coincides with a time when youth are seeking greater stimulation for various social, emotional, and physical reasons. The tendency to depend on psychosocial reasoning over intellectual reasoning can result in short-sighted decision making, a focus on the benefits of risk above costs, and increased susceptibility to coercion. The attraction to risk and immediate gratification, coupled with a youth’s lack of available and strong intellectual reasoning skills, can lead to poorly considered decisions. Additionally, adolescents’ desire for peer approval – or their fear of rejection – may lead them to do things they might not otherwise do, behavior which research shows declines as they age. Overall, the developing brain systems available to youth, when faced with the external pressures of peers and other various social influences, create adolescent tendencies to utilize ineffective and limited judgment.

The vast majority of adolescents who get in trouble with the law do so not because they are budding career criminals but because risk taking and boundary testing is a normal part of adolescent development. Most young people eventually age out of delinquent behavior. The National Research Council of the National Academies reports:

"Research indicates that for most youth, the period of risky experimentation does not extend beyond adolescence. Ceasing as identity becomes settled"
Studies on the developing adolescent brain also show that youth are capable of immense change, and the U.S. Supreme Court has indicated that this capacity for change means that they must be treated differently than adults in sentencing. In 2005, the court found in *Roper v. Simmons* that executing people convicted of crimes committed before age 18 is unconstitutionally cruel and unusual. The court cited research on the adolescent brain as the basis for significant differences between children and adults and found that these differences were relevant to their culpability. xciv

The court later expanded its reasoning, in *Graham v. Florida*, to juveniles charged with non-homicide offenses, holding that they could not be given a sentence of life without parole. xcv And most recently, the court held that a life sentence could not be imposed on a person convicted of a homicide committed before he or she was 18 without a hearing to address the individual characteristics of the convicted person. “Because juveniles have diminished culpability and greater prospects for reform,” the court declared in *Miller v. Alabama*, “they are less deserving of the most severe punishments.” xcvi

Adolescents are fundamentally and biologically different from adults, and our nation’s highest court has repeatedly underscored the need to take this fact into consideration in the application of criminal justice – specifically drawing the line of adulthood at 18, not 17. Given everything we now know, it is clear that the juvenile justice system should be the default justice system for the vast majority of 17-year-olds that come into conflict with the law.

"BECAUSE JUVENILES HAVE DIMINISHED CULPABILITY AND GREATER PROSPECTS FOR REFORM, THEY ARE LESS DESERVING OF THE MOST SEvere PUNISHMENTS."

–Supreme Court of the United States ruling in *Miller v. Alabama*
LOUISIANA CAN RAISE THE AGE
AS THE ELECTED STATE’S ATTORNEY IN JEFFERSON COUNTY, ILLINOIS (A RURAL COUNTY IN THE SOUTH OF THE STATE), FORMER PROSECUTOR JEFF BRADLEY SAID HE FELT MUCH MORE LIMITED IN WHAT HE COULD DO FOR YOUNG PEOPLE IN THE CRIMINAL JUSTICE SYSTEM, COMPARED TO THE JUVENILE SYSTEM. AS A RESULT, HE SUPPORTED RAISING THE AGE IN ILLINOIS: "THERE WERE A LOT OF TIMES I HAD KIDS THAT WERE 18, 19, 20 YEARS OLD, WITH REALLY LOW-LEVEL OFFENSES ... I WAS VERY AWARE THAT WHAT WE DID IN COURT WAS GOING TO FOLLOW THIS KID AROUND IN LIFE." 

LOOKING BACK SIX YEARS AFTER THE INITIAL PASSAGE OF THE LAW AND A YEAR AFTER FULL IMPLEMENTATION, BRADLEY SAYS THAT CONCERNS ABOUT OVERLOADING THE JUVENILE SYSTEM WERE OVERBLOATED, AND THERE WERE NO POLITICAL RAMIFICATIONS FOR ELECTED OFFICIALS. "WE DID SEE OUR DETENTION NUMBERS RISE DUE TO THE FACT THAT KIDS THAT WOULD HAVE BEEN IN THE COUNTY JAIL WERE NOW GOING TO THE DETENTION CENTER, BUT THEY WERE DEFINITELY NOT OVERWHELMING NUMBERS." HE SAID. "AND RAISE THE AGE DID NOT CREATE THE BACKLASH THAT SOME CLAIMED IT WOULD."

"RAISE THE AGE DID NOT CREATE THE BACKLASH THAT SOME CLAIMED IT WOULD."

–Jeff Bradley, Juvenile Justice Project Manager and Government Affairs Liaison for the Illinois Collaboration on Youth and former State’s Attorney
LOUISIANA CAN FOLLOW THE SUCCESS OF OTHER STATES

Raising the age will not require significant upfront costs to increase resources in our juvenile justice system. As implementation of Raise the Age in other states demonstrates, raising the age can be done without increasing the overall size of the juvenile justice system, and without increasing costs.

CONNECTICUT

Connecticut raised the age first for 16-year-olds in 2010 and then again for 17-year-olds in 2012. The state’s juvenile justice system is now smaller than it was prior to raising the age, and 16- and 17-year-olds have lower recidivism rates and better outcomes than younger children in the juvenile justice system.
ILLINOIS

Illinois anticipated that raising the age would increase the size of the juvenile justice system by 38.4%\(^\text{cii}\). Instead, the number of children incarcerated in Illinois’s juvenile prisons decreased each year following the initial phase of Raise the Age, and continued to decrease after the law was fully implemented. The population of youth in detention centers initially decreased, rising slightly after felony offenses were included, but still remaining below pre-Raise the Age levels.\(^{\text{ciii}}\)

INCARCERATED YOUTH IN ILLINOIS

![Graph showing the number of incarcerated youth in Illinois from 2009 to 2014 during RTA phase 1 and 2. The data shows a decrease in the number of youth in juvenile prisons and pre-trial detention centers each year following the initial phase of Raise the Age, with a slight increase after felony offenses were included.]

MASSACHUSETTS

Massachusetts raised the age to include 17-year-olds in the juvenile justice system in September of 2013. The state estimated that 17-year-olds would account for 1,302 additional detentions and 335 additional commitments to the Department of Youth Services. The reality was not even close – 17-year-olds only accounted for 691 detentions and 165 commitments in 2014, in a state with a population significantly larger than Louisiana’s.\(^{\text{cvii}}\)
The Louisiana Supreme Court reported a total of 677,802 filings in District Courts in 2014. Seventeen-year-olds comprised a minuscule percentage of those cases. Data from the Louisiana Supreme Court shows that only 757 district court dispositions (i.e., all court cases that reached resolution) in 2014 were of youth who were 17-years-old at filing – just 629 unique youth. Among those 629 youth, almost a third (31%) had their cases refused, diverted, or dismissed, or they were found not guilty.

A report released this month by the nonpartisan Institute for Public Health and Justice at LSU projects that the impact of raising the age in Louisiana will be small:

- IPHJ estimates there will be just 35-36 additional youth in detention centers statewide on any given day, with 20 additional youth in nonsecure long-term facilities and 67 additional youth in state-run secure care facilities on any given day.

- The largest impact would be on probation at 294 additional youth at a time. But, it is likely the state can absorb that: In 2013, IPHJ reported that probation caseloads were at a historic low and continuing to fall dramatically. Dr. Mary Livers similarly reported falling juvenile probation caseloads in December of 2014. In 2011, there were 608 fewer youth on probation than just four years before.

All of Louisiana’s juvenile justice indicators are at historic lows. Juvenile arrests are down 40%. The number of youth in secure facilities is down 77% since 2000. Local jurisdictions that participate in the Juvenile Detention Alternatives Initiative have collectively reduced the number of youth in secure detention by more than a third since 2006.

The state already has, and is currently adding, capacity that can be used to accommodate the additional youth that IPHJ estimates will enter the juvenile justice system if we raise the age. According to the Louisiana Commission on Law Enforcement, which monitors the detention centers for compliance with the federal Juvenile Justice Delinquency and Prevention Act, the Department of Children and Family Services currently licenses 14 detention centers in Louisiana with a total of 587 beds. Based on data provided to the U.S. Department of Justice, only 219 of them are full on a given day. And in May 2016 the Office of Juvenile Justice is set to open the Acadiana Center for Youth, which will have 72 additional secure beds – and all available data tells us that these beds are not needed to house the current population of youth in our juvenile justice system.
Raising the age in Louisiana can be done with minimal strain on our resources. But there are logistical challenges to address, as there have been in other states that have successfully raised the age. Legislation to raise the age should establish a commission to develop and oversee a plan for implementation to address key issues, such as:

**HOUSING OLDER AND YOUNGER YOUTH IN THE SAME FACILITY:**

Detention centers and juvenile prisons in Louisiana already have youth over 16 in their care, since youth can remain in the juvenile justice system until age 21 for incidents that occur prior to their 17th birthday. But one way to reduce the likelihood that 17-year-olds will mix with young, vulnerable youth in secure facilities is to raise the minimum age at which youth can be placed in secure detention for misdemeanors. Louisiana law already prohibits placement in secure care post-disposition for youth under 13 who are adjudicated for misdemeanors. Louisiana could apply the same standard for detention centers for youth under 13 who are charged with misdemeanors, thereby reducing the chance of 17-year-olds being detained with very young children.

**TRANSPORTATION TO DETENTION CENTERS:**

Louisiana’s regionalized detention system means that transporting youth to detention centers can require sheriffs’ deputies to drive long distances. Illinois faced a similar challenge with only 16 detention centers serving 102 counties. But, after Raise the Age was implemented, the state found that local law enforcement agencies were able to manage the challenge, and additional transportation funding was not necessary.

Louisiana could require statewide implementation of a risk screening tool to determine whether a child is admitted to secure detention or released pending his initial hearing. These assessments could be conducted over the phone to determine whether a sheriff’s deputy should transport the child to the detention center. If detention is required, Louisiana law currently allows for youth in rural areas to remain in a holding area of an adult jail – provided they are “sight and sound” separated from adults – for a maximum of six hours while the Sheriff’s Office arranges transportation.
Although we do have enough capacity to raise the age today, implementing a set of complementary reforms to reduce the unnecessary use of detention and long-term confinement will further expand the capacity in our juvenile justice system.

Just as a bicycle works best when it uses the right gear for the right terrain, our justice system should use different resources for different situations, instead of over-relying on the "prison gear." According to the most recent data available, 63% of youth in Louisiana’s youth prisons are there for minor or nonviolent offenses. And even though we are incarcerating 77% fewer youth than we did 15 years ago, our population in secure care has plateaued since 2006. That is despite the fact that juvenile arrests are down 40% across the state. Our per capita juvenile incarceration rate is 19% higher than the national average and one of the highest in the South.

Louisiana has already committed the capital to build a new secure facility, along with $3.5 million in operating expenses for 2016. Rather than filling those beds with youth who could be served safely and effectively in the community, we should recognize the opportunity to bring 17-year-olds into the juvenile system so that those who need to be incarcerated can be placed in an age-appropriate facility that is designed to meet their needs, provide rehabilitation, and reduce the likelihood they will recidivate when they return home. To support this effort, we can implement common-sense solutions to reduce unnecessary use of confinement:

- **Shorten length of stay by reversing the default.** In Louisiana, judges set the length of stay in OJJ facilities by ordering a definite term of confinement, with the ability to modify it and release the youth early. But research shows that long stays in confinement increase recidivism. We could follow the lead of our sister states, such as Kentucky, in legislating a shorter cap on the length of confinement for juveniles and allowing judges the opportunity to extend the time if necessary.

- **Limit confinement for status offenses, misdemeanors, nonviolent felonies, and probation violations.** Many states recently passed legislation prohibiting state commitment for youth adjudicated for nonviolent offenses. Texas, Kentucky, Georgia, California, and Mississippi have all passed such legislation and have dramatically reduced the population of youth in state facilities as a result. Other states, like Ohio, have used fiscal incentives to ensure jurisdictions are not over-relying on state custody.

- **Reinvest in community-based resources.** Reinvestment of savings from reduced incarceration is a key component of Louisiana’s Juvenile Justice Reform Act of 2003, but this reinvestment was never realized. This may be one reason that the number of youth in our state facilities has flattened for so long. Since community-based programs cost a mere fraction of what it costs to incarcerate a young person, it would take only a small investment in alternative programming to build a larger pool for reinvestment. For example, in 2010, the Alabama Department of Youth Services identified a small pool of funds that could be allocated to local jurisdictions through a grants process, with continued funding dependent upon achieving reductions in the use of state confinement. The state invested less than $1 million in this grant process. Within just a few years, that pool had grown to more than $10 million and facilitated continued reductions in state commitments. No new funds were appropriated to DYS – the growth in
LOUISIANA CAN CREATE ADDITIONAL CAPACITY AT NO COST THROUGH COMMON-SENSE SYSTEMS REFORM

the grant program came entirely from reallocating resources. If Louisiana were to implement a similar grant process, the burden to the state could be reduced by requiring a local match. And more cost-effective nonresidential programs could be incentivized by offering a higher percentage match for programs that keep youth in their own homes.

Raising the age will also have an impact on locally operated detention centers where youth are held while their cases are pending in court, but this is a manageable challenge that can be further mediated by expanding reform efforts that are already in place.

Five of the largest jurisdictions in Louisiana already participate in the national Juvenile Detention Alternatives Initiative, led by the Annie E. Casey Foundation. This initiative focuses on eliminating the unnecessary and inappropriate use of secure detention. The JDAI sites in Louisiana are Caddo Parish, Calcasieu Parish, East Baton Rouge Parish, Jefferson Parish, and Orleans Parish. Detention reform is already well-established in these jurisdictions, where they now operate well under their maximum detention capacity. But reform is an ongoing process, and each site could enhance efforts to ensure they are minimizing the use of unnecessary detention. The Casey Foundation has pledged additional technical assistance for JDAI sites to help them prepare for the potential of raising the age in Louisiana. The Casey Foundation will assist JDAI sites with:

- **Improving use of screening tools:** Each site has created and implemented an objective screening instrument that guides the decision about whether arrested young people will be admitted to secure detention, released under the supervision of an alternative to detention, or released on their own recognizance. Ensuring that sites are using the tool as intended will reduce the unnecessary use of secure detention, with no risk to public safety.

- **Closing the “back door” to detention:** Youth may be detained unnecessarily for technical violations of probation, failures to appear in court, or re-arrests for minor offenses. Even mature JDAI sites can struggle with these populations and may benefit from revisiting their policies regarding graduated responses to noncompliance with probation, implementing or improving court notification systems, and developing differential warrant policies.

- **Reducing length of stay in detention:** The population in a detention center each day depends heavily on how long the youth are held. Delays in case processing can unnecessarily extend the length of stay in detention. Successful JDAI sites should consistently review case processing timelines and practices to ensure cases are being expedited as quickly as is possible without sacrificing due process.

Expanding JDAI beyond the five original jurisdictions will ensure that Louisiana is able to maximize space in its detention centers. JDAI is already expanding to Terrebonne Parish, where the initiative appears to have the potential to decrease detention admissions by a significant percentage.

We can also reduce the need for detention beds, youth prison beds, and probation services by increasing the diversion of youth from formal processing. In Louisiana, district attorneys operate diversion programs that can be used at their discretion.
as an alternative to court processing for certain youth who pose minimal risk to public safety. Research has repeatedly shown that justice system involvement of any kind can increase recidivism, and recent research out of the University of New Orleans shows that self-reported offending doubled among youth who received formal system processing, while informal interventions reduced offending by about 75%. Although the Louisiana District Attorneys Association published guidelines for juvenile diversion in 2012, there are no statewide standards defining which youth should be diverted or what diversion should entail. Furthermore, there are no statewide data regarding the use of diversion, so it is difficult to know whether jurisdictions are maximizing opportunities to avoid unnecessary juvenile justice system processing.
CONCLUSION & RECOMMENDATIONS
Louisiana needs to take a common-sense, balanced approach based on what we know about kids and how they change and develop over time: we must hold them accountable, but also give them the supports and services they need to mature into responsible, law-abiding adults. Allowing the juvenile justice system to be the default system for 17-year-olds accused of breaking the law is a policy change that is good for our economy, good for public safety, and good for our children. Louisiana, let’s raise the age. In 2016, we should:

PASS A BILL TO RAISE THE AGE

In 2016, Louisiana should pass a law raising the maximum age for juvenile jurisdiction from 16 to 17. This means holding youth accountable in age-appropriate settings by making the juvenile justice system the default for 17-year-olds.

ALLOW FOR THOUGHTFUL IMPLEMENTATION

The legislature should convene a commission to develop a plan for full implementation by July 1, 2017. During the transition period, local jurisdictions should have the option to immediately move 17-year-olds out of adult jails and into juvenile detention centers. We should also attempt to learn from the efforts of other states – for example, in Illinois, the age of juvenile jurisdiction was first raised just for youth charged with misdemeanors. This created challenges when youth charged with both misdemeanors and felonies, and if the prosecutor’s charging differed from the police. In its report to the legislature in 2014, the Texas House Committee on Criminal Justice Jurisprudence recommended against a bifurcated approach to raising the age in Texas.\footnote{cxxx}

PASS LEGISLATION TO RIGHT-SIZE THE JUVENILE JUSTICE SYSTEM

There is enough capacity in the juvenile justice system to accommodate 17-year-olds. But to ensure the most cost-effective transition and avoid potential upfront costs of raising the age, Louisiana should take common-sense steps to ensure youth remain in the community whenever possible. Unnecessary imprisonment is bad for our budgets and bad for public safety. The research is clear that the further a young person penetrates the juvenile justice system, the more likely he or she is to be arrested as an adult, and this is especially true when youth are incarcerated in secure facilities.\footnote{cxxx} We should legislate reforms that will minimize the use of expensive residential facilities and incentivize community-based solutions.

TAKE STEPS TO REDUCE THE UNNECESSARY USE OF SECURE DETENTION

Statewide implementation of the Juvenile Detention Alternatives Initiative will reduce the unnecessary use of detention across the state, improving public safety and preventing the need to increase capacity to accommodate 17-year-olds. Since its inception, JDAI sites nationally have reduced detention populations by more than 40%, collectively detaining 80,000 fewer youth and saving 1.3 million days of detention.\footnote{cxxxii}
ENDNOTES


VI. Id.


X. E-mail from Mike Lawlor, Criminal Justice Policy & Planning Division, Connecticut Office of Personnel Management (Jan. 20, 2016) (on file with author) [Hereinafter Lawlor].


XII. Phillips, supra note ii, at 35-38.


XIV. 77 FR 37106.; See also 28 CFR Part 115.


XVI. Email from Irene Hsu, Policy Advisor, Office of Urban Affairs, Justice and Opportunity, The White House (Feb. 2, 2016) (on file with author).


XIX. Id.

XX. Id.


XXIV. Id.

XXV. Email from Eli Lehrer, President, The R Street Institute (Jan. 28, 2016) (on file with author).

XXVI. Poll conducted by Louisiana State University Public Policy Lab on behalf of the Power Coalition 2015 People's Survey (September 17 -- October 11, 2015), on file with author.


PREA applies to all young people sentenced to DOC revealed a number of challenges with the program and the facility's compliance with PREA. The intentions of DOC in developing the Youthful Offender Program should be applauded, but its shortcomings also demonstrate why housing youth in adult facilities creates nearly impossible challenges for the management of the facility. Attorney visits with young people sentenced to DOC revealed a number of challenges with the program and the facility's compliance with PREA. Youth in YOP are housed in a separate dorm, but they still encounter adults regularly. Youth in YOP are served food by adult inmates, adult inmates are responsible for janitorial services in the dorms, and there are times when youth in YOP are away from the YOP dorm and instead are on the main prison compound, where the adult inmates spend most of their time.

ENDNOTES

LXII Id.
LXIV Lawlor supra note x
LXVIII Id.
LXX Now and Later, supra note v at 16.
LXXIII LABI supra note vii
LXXIV Now and Later, supra note v at 7
LXXV Ready 4 Work, supra note viii at 1
LXXVI Now and Later, supra note v at 16
LXXVII Id.
LXXVIII Now and Later, supra note v at 15
LXXIX Now and Later, supra note v at 7
LXXX Now and Later, supra note v at 5.
LXXXI See Now and Later, supra note v
LXXXII Every housing authority has its own rules regarding ineligibility for public housing units and Section 8 vouchers, which the housing authorities administer. The federal government’s restrictions for admission to public housing only apply to people who 1) have been convicted of methamphetamine production in public housing, 2) are subject to lifetime sex offender registration, or 3) have been evicted from public housing for drug-related activity in the last three years, unless circumstances leading to eviction no longer exist or the “offending household member” has completed a rehabilitation program. 24 C.F.R. § 960.204 (current through 2015). Federal law allows public housing authorities to terminate public housing tenancies for “[c]riminal activity or alcohol abuse.” 24 C.F.R. § 966.4(i)(iii)(A) (effective Nov. 26, 2010). Although housing authorities are permitted to evict even without an arrest or conviction, they are also afforded discretion in determining when to terminate under federal law. 24 C.F.R. § 966.4(i)(vii)(D) (effective Nov. 26, 2010).
LXXXIV Art. 1015(6)
LXXXV Email from Hannah Lommers-Johnson, Staff Attorney at Orleans Public Defenders (Jan. 21, 2016) (on file with author).
LXXXVI La. Ch.C. Art. 847(B) and La. Ch.C. Art. 879(A).
LXXXVII La. Ch.C. Art. 804(1)
LXXXIX Reforming Juvenile Justice [Richard J. Bonnie et al. eds., 2012] [Hereinafter Bonnie].
XI Id.
XIII Bonnie supra note lxxix
XV Graham.
XVII Supra note ix. Because Connecticut raised the age by two years, instead of just one as is being proposed in Louisiana, the
actual impact is calculated based on the change between 2010 and 2012, after 16-year-olds had already come into the juvenile system.

XCVIII Raise the Age CT: Results, http://raisetheaspect.org/results.html (last visited Jan. 22, 2016)
XCIX Id.
C Id.
CI Id.
CIII E-mail from Elizabeth Clarke, President and Founder, Juvenile Justice Initiative (Dec. 18, 2015) (on file with author).
CIV Interview with Jeff Bradley, Juvenile Justice Project Manager and Government Affairs Liaison, Illinois Collaboration on Youth (Jan. 7, 2016). [Hereinafter Bradley]
CV Id.
CVI Id.
CVII Campaign for Youth Justice, Impact of “Raise the Age” Laws, (on file with author).
CIX Frank DiFulco, supra note xxxii. Analyses of this dataset exclude youth who were 21 or older at the time of disposition.
CX Phillipi supra note ii at 36, 38.
CXI Id.
CXIV Id.
CXVI IPHJ supra note cxiv at 87; See Louisiana Office of Juvenile Justice, Demographic Profiles of Youth in Custody, January 2015-December 2015 (on file with author).
CXVIII E-mail from Tyler Downing, Confidential Assistant to the Exec. Director, Louisiana Commission on Law Enforcement (Nov. 16, 2015) (on file with author).
CXX Id.
CXXI Supra note cxviii
CXXII LCLE supra note cxviii
CXXIII Easy Access to Juvenile Populations: 1990-2014, http://www.ojjdp.gov/ojstatbb/ezacjrp/ Id. Incarceration rates were calculated by comparing the number of juveniles incarcerated according to the CJRP with the population counts for youth who are defined as juveniles in every state in the United States.
CXXV La. Ch.C. Art. 804(1)
CXXVI La. Ch.C. Art. § 899(d)
CXXVII Bradley supra note cxi
CXXVIII La. Ch.C. Art. § 306(b) (2002).
CXXXI Nate Balis, Director of Annie E. Casey Found.’s Juvenile Justice Strategy Group, JDAI Nat’l. Inter-Site Conference (Sep. 29, 2015).
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