

# SETTING A MINIMUM AGE FOR YOUTH INCARCERATION IN RHODE ISLAND

2015

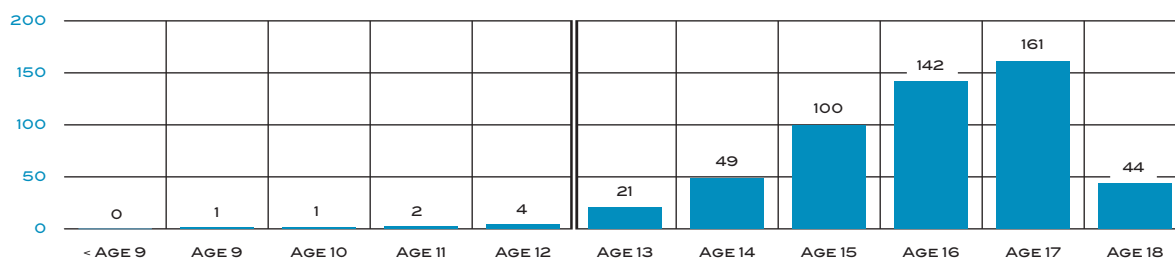
Nationally and in Rhode Island, preadolescent children make up a small portion of youth involved in the juvenile justice system. During 2013, less than 7% of juvenile arrests in Rhode Island and the United States were of children age 12 or younger.<sup>1,2</sup> State laws vary in their treatment of young offenders, with many states setting a lower age limit for the use of incarceration and/or a minimum age for delinquency jurisdiction.

**JUVENILE CORRECTIONAL CUSTODY:** Twenty-eight states set a minimum allowable age for sentencing a youth to a juvenile correctional facility. This minimum age is age 12 in twelve states, age 11 in four states, age 10 in nine states, age 8 in two states, and age 7 in one state.

**DELINQUENCY ADJUDICATION:** Eighteen states have a minimum age for delinquency adjudication that prevents the prosecution of children below a certain age in juvenile court. The minimum age is age 10 in eleven states, age 8 in three states, age 7 in three states, and age 6 in one state.

Rhode Island is one of 13 states that has no established minimum age for either juvenile correctional custody or delinquency adjudication.<sup>3,4</sup> Rhode Island also is not among the 19 states that set a minimum age of criminal responsibility, below which children cannot be tried in adult criminal court.<sup>5</sup>

## CHILDREN AND YOUTH AT THE TRAINING SCHOOL, 2014



Source: Rhode Island Department of Children, Youth and Families, RIC HIST, 2014.

- During 2014, there were eight children aged 12 and under who spent time at the Rhode Island Training School, representing less than 2% of total number of youth held during the year. There were 70 youth ages at the Training School ages 13-14, 242 youth ages 15-16, and 205 youth ages 17-18.<sup>6</sup>
- During 2014, the average age for youth at the Training School was 15.9 years.<sup>7</sup>
- Nationally, 1% of youth in the juvenile justice system who were residing in a correctional or residential setting were age 12 and younger.<sup>8</sup>

## WHY NOT INCARCERATION?

- For preadolescent children, incarceration with older youth can expose them to inappropriate peer role models that can increase their likelihood of reoffending.
- Children in secure confinement are at risk of experiencing psychological distress as well as physical or sexual abuse.
- Incarceration in a secure facility limits opportunities for positive experiences and can exacerbate a youth's social, academic, and emotional difficulties.<sup>9</sup>

## DEVELOPMENTALLY-APPROPRIATE ALTERNATIVES AND TREATMENT

- To ensure services are age-appropriate, all preadolescent children that come into contact with the Rhode Island's juvenile justice system should be evaluated for threat to public safety as well as individual and family risk factors. They should be referred to a developmentally-appropriate alternative to incarceration for remediation and treatment.
- When preadolescent children exhibit law-breaking behavior, there is often family dysfunction or behavioral health issues present that can best be addressed outside of the juvenile justice system.
- In cases where a parent's failure to provide adequate supervision constitutes child neglect, the child welfare system can provide in-home supports (e.g., family counseling or parenting education) or place the child with a relative, foster family, or in a group or residential setting in order to provide the child with support and to establish positive behavioral norms.<sup>10,11</sup>
- For children with mental health issues, the children's behavioral health system can provide psychiatric treatment, counseling, intensive home- and/or community-based services, residential placement, and/or hospitalization in order to address their treatment needs so they can live safely and securely in their homes.<sup>12</sup>

## RECOMMENDATION

Rhode Island should enact legislation to prohibit any child age 12 or younger from being held in pre-trial detention or sentenced to the Rhode Island Training School unless they are charged with a capital offense.

## REFERENCES

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