

“Social justice should be the underlying goal of all humanity.”
-Alan V. Lowenstein, Institute Founder



TESTIMONY OF ASHANTI JONES
NEW JERSEY INSTITUTE FOR SOCIAL JUSTICE IN SUPPORT OF A5169
THE NEW JERSEY ASSEMBLY JUDICIARY COMMITTEE
MAY 18, 2023

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do social justice.

Good morning, Chair Mukherji, Vice-Chair Murphy and members of the Assembly Judiciary Committee:

Thank you for your leadership in introducing this bill, Chairman Mukherji, and for the opportunity to present this testimony on behalf of my organization.

My name is Ashanti Jones, and I am a Policy Analyst at the New Jersey Institute for Social Justice (the “Institute”). The Institute’s advocacy empowers people of color by building reparative systems that create wealth, transform justice and harness democratic power – from the ground up – in New Jersey.

The Institute supports A5169, a bill that establishes a minimum age for juvenile delinquency of 12 years old, however, we recommend that it be amended to establish a minimum age of 14.

Introduction

The Institute supports A5169 and recommends an amendment to raise the age to 14 for when a young person’s behavior is considered juvenile delinquency for the following reasons: 1) Establishing a minimum age for when behavior can be characterized as juvenile delinquency reduces the risk of mischaracterizing developmentally appropriate misbehavior with criminality; 2) Raising the age to 14 accords with brain science that recognizes that youth are more likely to engage in harmful behavior prior to full brain development; 3) Raising the age to 14 will make New Jersey a leader among states and aligns with international standards for juvenile delinquency.

1) *By establishing a minimum age for when behavior can be characterized as juvenile delinquency, New Jersey reduces the risk of mischaracterizing developmentally appropriate misbehavior with criminality.*

Without setting a minimum age New Jersey runs the risk of occurrences like that of Kaia Rolle, a six-year-old arrested in a Florida school after having a tantrum,¹ or Philip Roybal, who was arrested in Colorado at 12 years old for

stealing baseball cards at school² and a six-year-old North Carolina boy arrested for destruction of property for picking a flower.³

2) *Raising the age to 14 accords with brain science that recognizes that youth are more likely to engage in harmful behavior prior to full brain development.*

It is an incontrovertible fact that the human brain undergoes an extraordinary journey of development throughout childhood and adolescence. Research in the fields of child psychology and neuroscience have attested to the limitations in the cognitive and emotional capacities of children.⁴ Their emerging decision-making processes are fraught with immaturity, their impulse control is fragile and their understanding of long-term consequences is underdeveloped.⁵

It is imperative that New Jersey recognize the critical importance of allowing these young individuals the time and space to mature, evolve and develop the necessary skills to make responsible choices.

The unequivocal body of research demonstrates that punitive measures in the case of minors fail to yield desired outcomes.⁶ In stark contrast, interventions, counseling and support services designed specifically for their age group have proven to be vastly more effective.⁷ By establishing 14 as the minimum age for arrest, the state can redirect our valuable resources toward these age-appropriate, evidence-based programs that address the root causes of delinquent behavior, promoting partnerships between schools, communities, law enforcement and community-based organizations.⁸

If New Jersey raises the age to 14, it reduces the number of elementary and middle school students who would be funneled into the juvenile justice system and have their lives forever harmed.

Let us not be complicit in perpetuating a system that crushes the spirit and exacerbates recidivism but instead, forge a path towards a future where every child can reclaim their lives and contribute positively to society.

3) *Raising the age to 14 will make New Jersey a leader among states and will match international standards for juvenile delinquency.*

The United Nations Convention on the Rights of the Child requires countries to establish a minimum age of criminal responsibility,⁹ prioritizing the best interests of the child¹⁰ and the right to life,¹¹ and survival and development.¹² The United Nations High Commission on Human Rights has subsequently interpreted the treaty to require a minimum age of 14 or higher.¹³ Stateside, the American Bar Association also recommends the age be set at 14.¹⁴ However, while 24 states in the United States have a minimum age for juvenile delinquency, none have a minimum age set at 14. Therefore, setting the minimum age of delinquency to 14 would position New Jersey as a leader in the country.

Conclusion

Chair Mukherji, Vice-Chair Murphy and fellow committee members, I encourage you to release A5169 from your committee with an amendment to raise the age to 14 for the reasons mentioned. Doing so signifies New Jersey's unwavering commitment to protecting our children's rights, preserving their well-being and nurturing their boundless potential. It is our moral obligation to provide them with every opportunity for growth, education and rehabilitation, sparing no effort in empowering them to become thriving, productive members of our community.

Thank you.

¹ Cheryl Corley, *In some states, your 6-year-old child can be arrested. Advocates want that changed*, NPR (May 2, 2022, 5:55 PM ET), <https://www.npr.org/2022/05/02/1093313589/states-juvenile-minimum-age-arrested-advocates-change>.

² Phillip Roybal, *Colorado, don't break your promise to lock up fewer kids*, C.O.NEWSLINE (Feb. 28, 2023, 3:30 AM), <https://coloradonewsline.com/2023/02/28/colorado-dont-break-promise-to-lock-up-fewer-kids/>.

³ Trace William Cowen, *6-Year-Old Boy Sent to Court in North Carolina for Picking a Tulip*, Yahoo!news (Mar. 24, 2021), https://news.yahoo.com/6-old-boy-sent-court-204227370.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuYmluZy5jb20v&guce_referrer_sig=AQAAAKxs0j_fP12JmeQ2sq_NpbrtL2ff5NnWmq2MQMLkdnq1-_nao9X7Pe7drTZlfWp9b3trH9M-U5f9bKU8ZUqfiNq9nNXTWAefdMsBCjfxYFstxnLz7apRm3XXQl_myN-Pbvbo9mFVnaYrbflzG6dttI84KIUTKZS3K636VC8vOEP.

⁴ April Frazier-Camara, *Report to the House of Delegates*, 5 AM. BAR ASS'N. (2021), [https://www.njcn.org/uploads/digital-library/Resolution%20505%20\(Ann-2021\)--Age%20of%2014.pdf](https://www.njcn.org/uploads/digital-library/Resolution%20505%20(Ann-2021)--Age%20of%2014.pdf).

⁵ A. MADDUX, QUESTIONS FOR PSYCHOLOGISTS REGARDING THE CLOSURE OF YOUTH PRISONS: A LITERATURE REVIEW 5 (2021), https://d3n8a8pro7vhmx.cloudfront.net/njisi/pages/691/attachments/original/1621953821/Maddux_Final_LitRev.pdf?1621953821.

⁶ ACLU Fact Sheet on the Juvenile Justice System, ACLU <https://www.aclu.org/other/aclu-fact-sheet-juvenile-justice-system> (last visited May 17, 2023).

⁷ Maddux *supra* note 5 at 8.

⁸ Press Release, OFF. OF THE GOVERNOR, Acting Governor Oliver Signs Legislation Establishing Juvenile Justice Pilot Program (Aug. 11, 2021), <https://www.nj.gov/governor/news/news/562021/20210811a.shtml>.

⁹ Convention on the Rights of the Child art. 40 ¶ 3(a), 20 Nov. 1989, 1577 U.N.T.S. 3., <https://www.ohchr.org/sites/default/files/crc.pdf>.

¹⁰ *Id.* at art. 3 ¶ 1.

¹¹ *Id.* at art. 6 ¶ 1.

¹² *Id.* at art. 6 ¶ 2.

¹³ U.N. High Commission on Human Rights, General comment No. 24 (2019) on children's rights in the child justice system, (September 18, 2019), <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsqIkirKQZLK2M58RF%2F5F0vEnG3QGKUXFivhToQfjGxYjV05tUAlgpOwHQJsFPdJXCixFSrDRwow8HeKLLh8cgOw1SN6vj%2Bf0RPR9UMtGkA4>.

¹⁴ Amanda Robert, *ABA House addresses treatment of children and youths in pair of resolutions*, ABA (Aug. 10, 2021, 12:22 PM CDT), <https://www.abajournal.com/news/article/resolutions-505-and-506-aba-house-addresses-treatment-of-children-and-youth-in-pair-of-resolutions>.