Raising the age of criminal responsibility
posted by Julia Ferrini in Wyoming County, crime.

New York State is one of only two states whose age of criminal responsibility is 16. In January, Gov. Andrew Cuomo outlined a proposal to raise the age of criminal responsibility to 18. According to New York State Bar Association President Glenn Lau-Kee, raising the age of criminal responsibility will help all children to embark a more positive path to adulthood; providing troubled teenagers with support and guidance can help them turn around their lives. Wyoming County District Attorney Donald O’Geen holds the position that raising the age of criminal responsibility is both irresponsible and reckless.

“I believe that this change will only give this age group a license to commit crimes without a real threat of any consequences,” O’Geen said. “The proposal in effect takes these cases out of criminal court and puts them in the family court setting. When has that ever been the most effective way to handle cases like these?”

Citing his main worry for these types of cases is the victims, no matter what the age of the defendant, a victim is still a victim. O’Geen also notes, when there is not a significant consequence, neither the parent, nor the young defendant will make it right with the victim.

Currently, all first-time defendants under the age of 19 convicted of a misdemeanor automatically receive a youthful offender judgement, which seals their indiscretion. This judgement means they are not considered a convicted criminal.

“According to the state’s own numbers, there are only 100 defendants in this age group in prison on any given day. These youthful inmates are kept in a separate part of the prison system and not held with older inmate,” O’Geen said. “Furthermore, only 700 inmates of this age group are in our local jails. We are talking about 800 defendants on any given day who the state believes should not be in jail. I would suggest that if those 100 prison cases were reviewed, you would find it reprehensible that these individuals were not in prison. I would bet that those 100 cases are severe and clearly warrant incarceration at the highest levels.”

As for the 700 inmates in local jails, O’Geen submits that the system had to balance between the age of the defendant and the severity of the crime while knowing that some jail must be imposed. Additionally, he states that it is oftentimes a graduated sanction for the person who has had a troubled youth or who was originally put on probation and then violated leaving the court no alternative but to impose a jail sentence.

“What we try and do with these types of cases,” O’Geen said, “is try and make the victim whole, hold the defendant accountable for his or her actions and find an appropriate remedy that will create a change in behavior so that the individual does not continue to commit crimes. We do this with the idea that they will receive youthful offender adjudication, so that if this is their only indiscretion, it will not follow them for the rest of their lives.”
While it is true that New York State is one of only two states whose age of criminal responsibility is 16, does this make these two states wrong in their position? According to O’Geen, the answer is no, yet Gov. Cuomo sees it as a rallying cry for the current reform movement. Led by the State’s Chief Judge Jonathan Lippman, Cuomo was inspired to begin this initiative and urge legislative action. According to the district attorney, New York State has seen a huge drop in crime and is in the fourth safest state in the country behind North Dakota, Idaho, and New Jersey. He also states that New York is the safest large state in the Union.

Under the governor’s proposal, there will be an increased burden on an already underfunded probation system, according to O’Geen. This proposal promises the creation of a small number of residential units to handle those defendants that need supervision, a promise that O’Geen said will not be kept because it will probably never be funded.

“That part of the bill is meant to appease those that are worried about the worst of the worst getting out without supervision,” O’Geen. “What has happened to beds for the mentally ill? The answer will only be the same for this issue. Even if they do build these units, the size of these facilities will not be big enough to handle the proper number of defendants. Whether this proposal creates more crime or not is one issue that may never be answered, but I am confident that the crimes that we currently handle will be handled by inexperienced (as it relates to criminal cases) county attorneys who will be massively underfunded. I would bet that their main focus will not be on the needs of the victims.”

Cuomo suggests that extensive research has been conducted on the significant negative impacts on adolescents of incarceration in adult jails and prisons. The governor also cites higher suicide rates, increased recidivism, and other measures all suggest that both offenders and their communities are harmed by placing teens with incarcerated adults. There has been an assumption that non-violent youth are sent to adult prisons, O’Geen said, however, in his 14 years as a prosecutor, he has never seen a non-violent youth – someone under the age of 19 – be sentenced to prison after their first offense. He said it just doesn’t happen. However, there may be cases where prison is the ultimate sentence, but only in cases where the teen was put on probation and violated, or their prior record was so bad that it was unavoidable.

According to Gov. Cuomo’s reasoning behind the proposal, raising the age of criminal responsibility has demonstrated that recidivism and juvenile crime rates can be lowered through evidence-based interventions that steer non-violent young offenders out of the justice system and into family mental health or other needed services. Wyoming County, however, has a number of programs designed to aid youthful offenders. Kids under the age of 16 who qualify, are subject to Youth Court that is run through the Wyoming County Youth Bureau. This program allows cases normally seen in family court to be diverted to the Youth Court. Conversely, kids under the age of 16 are sent to probation and then to family court to be dealt with as a juvenile delinquent. For offenders that are over the age of 16, those cases are handled by the District Attorney’s Office and in the jurisdiction where the crime occurred.

“In many cases, which is also true throughout the state, we give these non-violent offenders Youthful Offender treatment, interim probation, and/or Adjournment in Contemplation of Dismissal,” O’Geen said. “The major theme with most of these type of sentences is that we give the defendant time to prove that their current indiscretion is out of character and if the appropriate amount of time passes without further incident, we either reduce or just outright dismiss the charge. In other, more severe cases, their conviction may be sealed, but they still have to serve some jail time and/or a longer probationary sentence.”

Once the defendants, regardless of age, engage in a rehabilitative program, response is generally positive. According to O’Geen, this works with youthful offenders, drug and alcohol addicts, and domestic abusers. Without the threat of a more severe sanction, defendants do not sincerely engage in these programs. While both the Governor and the District Attorney agree that youthful offenders most often respond to efforts of rehabilitation, according to the District Attorney, it is the threat of incarceration that forces defendants to engage in the rehabilitative measures.

**Comments**

Add a comment...  
Also post on Facebook  
Posting as Rebecca Reitz  
Comment  

Facebook social plugin
<table>
<thead>
<tr>
<th>Town</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Java</td>
<td>Middlebury</td>
</tr>
<tr>
<td>Orangeville</td>
<td>Perry</td>
</tr>
<tr>
<td>Pike</td>
<td>Sheldon</td>
</tr>
<tr>
<td>Silver Springs</td>
<td>Strykersville</td>
</tr>
<tr>
<td>Warsaw</td>
<td>Wethersfield</td>
</tr>
<tr>
<td>Wyoming</td>
<td></td>
</tr>
</tbody>
</table>