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Health Group Statement of Support for Instituting a Minimum Age of Jurisdiction for Juvenile Justice Involvement

Statement of American Academy of Pediatrics, American Academy of Child & Adolescent Psychiatry, American Council for School Social Work, American Psychological Association, Clinical Social Work Association, National Association of Social Workers and Society for Adolescent Health and Medicine

On behalf of child and adolescent health professional organizations, we collectively endorse action to institute a minimum age of at least 12 years for juvenile justice system jurisdiction. Children and young adolescents who come in contact with the juvenile justice system need access to developmentally appropriate, trauma-informed, supportive health and social services, not inappropriate punishment.

As of February 2021, only 22 states nationwide had a minimum age established in law below which children cannot be processed in the juvenile justice system, ranging in age from 6 to 12.¹ Only 3 states have set their minimum age at 12 years of age.² The remaining states have no legal minimum age of juvenile justice jurisdiction, meaning even the youngest children can be processed and adjudicated in juvenile courts, held in detention centers, and committed to correctional facilities.

Over the last two decades, advances in neuroscience and neuroimaging have opened a critical window for the understanding of child and adolescent brain development.³ Studies have shown that the brain undergoes numerous structural and functional changes throughout childhood and the process of brain maturation is not complete until at least age 26.^{4,5} Furthermore, research shows that the brain develops in stages, culminating in the maturation of the prefrontal cortex.⁶ The prefrontal cortex, sometimes referred to as the “control center of the brain,” is the area of the brain responsible for a variety of executive functions, including decision making,

¹ National Juvenile Justice Network. (2021). *Raising the minimum age for prosecuting children*. <http://www.njjn.org/our-work/raising-the-minimum-age-for-prosecuting-children>.

² Ibid.

³ S Barnert E, S Abrams L, Maxson C, et al. Setting a minimum age for juvenile justice jurisdiction in California. *Int J Prison Health*. 2017;13(1):49-56. doi:10.1108/IJPH-07-2016-0030

⁴ Monahan, K., Steinberg, L., & Piquero, A. R. (2015). Juvenile justice policy and practice: A developmental perspective. *Crime and Justice*, 44(1), 577-619.

⁵ Sowell, E. R., Peterson, B. S., Thompson, P. M., Welcome, S. E., Henkenius, A. L., & Toga, A. W. (2003). Mapping cortical change across the human life span. *Nature Neuroscience*, 6, 309-315.

⁶ Arain, M., Haque, M., Johal, L., Mathur, P., Nel, W., Rais, A., Sandhu, R., & Sharma, S. (2013). Maturation of the adolescent brain. *Neuropsychiatric Disease and Treatment*, 9, 449-461.

impulse control and emotional regulation.⁷ The developmental immaturity of the prefrontal cortex may contribute to the behaviors that lead to contact with the juvenile justice system.⁸

Despite significant progress over the course of the last century in the development of a separate legal system for the adjudication of young people, the juvenile justice system, as it functions today, does not align with a contemporary understanding of brain science. The current juvenile justice system, a patchwork of state and local jurisdictions, often treats developmentally appropriate child behavior as criminal activity, delivering a response that is punitive in nature rather than supporting in positive ways children's long-term developmental trajectories. Juvenile justice systems address wide ranges of child behaviors from status offenses like truancy—that are only considered violations of the law because of a young person's age—to more serious violent acts.⁹ Most behaviors that are defiant or quarrelsome are in fact developmentally normal and warrant no intervention at all.¹⁰ Still others are more disruptive behaviors that are a product of untreated trauma, unmet physical or mental health needs, or lack of access to needed resources. When viewed through the lens of brain development, it is clear that society's response to such behavior should be to provide children and young adolescents with developmentally appropriate health and social services and not to punish them by involving them with the juvenile justice system.

Children and young adolescents displaying more impulsive, disruptive, maladaptive, or potentially dangerous behaviors are best served by culturally and developmentally appropriate behavioral health services and interventions.¹¹ Attempting to manage these behaviors in the context of the juvenile justice system fails to address the root causes of these behaviors, setting young people up for failure now and in the future. We now also recognize that younger children and adolescents generally do not have the cognitive ability to understand what it means to break the law nor are they competent to stand trial as a product of their developmental age.¹²

¹³

There are serious consequences to managing children's and adolescents' behavior in the juvenile justice system. Early contact with the juvenile justice system increases the likelihood of future system involvement, in part by labeling and then fostering the development of a criminal identity in the young person as well as by removing them from normal prosocial and educational activities. Detention at a young age is associated with poor adult health outcomes across physical and mental health domains. Juvenile justice involvement may also interrupt healthy development, serve as a traumatic experience for youth already at heightened risk for

⁷ Ibid.

⁸ Monahan, K., Steinberg, L., & Piquero, A. R. (2015). Juvenile justice policy and practice: A developmental perspective. *Crime and Justice*, 44(1), 577-619.

⁹ Hockenberry, S. (2020). Juveniles in residential placement, 2017. U.S. Department of Justice.

<https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/juveniles-in-residential-placement-2017.pdf>

¹⁰ Tolliver DG, Abrams LS, Barnert ES. Setting a US National Minimum Age for Juvenile Justice Jurisdiction. *JAMA Pediatr*. 2021 Apr 12. doi: 10.1001/jamapediatrics.2021.0244. Epub ahead of print. PMID: 33843953.

¹¹ Dragomir, R. R., & Tadros, E. (2020). Exploring the impacts of racial disparity within the American juvenile justice system. *Juvenile and Family Court Journal*, 71(2), 61-73.

¹² Grisso, T., Steinberg, L., Woolard, J., Cauffman, E., Scott, E., Graham, S., Lexcen, F., Reppucci, N. D., & Schwartz, R. (2003). Juveniles' competence to stand trial: A comparison of adolescents' and adults' capacities as trial defendants. *Law and Human Behavior*, 27(4), 333-363.

¹³ Abrams, L. S., Barnert, E. S., Mizel, M. L., Bryan, I., Lim, L., Bedros, A., Soung, P., & Harris, M. (2018). Is a minimum age of juvenile court jurisdiction a necessary protection? A case study in the state of California. *Crime & Delinquency*, 65(14), 1976-1996.

exposure to trauma, and subject young children to victimization and abuse.¹⁴ Further, the juvenile justice system compounds racial inequities, with data demonstrating that justice system processing is disproportionately used for children of color, particularly in the school-to-prison pipeline.^{15,16,17,18,19} Systemic racism directly contributes to justice involvement, especially for young Black boys. This disparity can be partially alleviated with hardline minimum age boundaries that protect all younger children, including Black boys, from counterproductive and unnecessary justice involvement. Failure to act to address these issues will only put more young people at risk of harm.²⁰

It is essential that—guided by scientific evidence, ethics, and common sense—policymakers support policies and enact legislation that establishes a minimum age of at least 12 years for juvenile justice system involvement to protect the health and well-being of children and young adolescents. We also advocate for policies to ensure that all children and adolescents, including those who may have come in contact with the juvenile justice system absent minimum age legislation, have access to the full range of social supports and services they need for healthy development. The recommendation for a minimum age of juvenile justice involvement is intended to apply to federal, state, and local jurisdictions.

The justice system fails the youngest members of our society, and action to remedy this systemic failing by instituting a minimum age of jurisdiction is an important step toward a more developmentally appropriate justice system for young people and a healthier society for all.

¹⁴ Evans-Chase, M. (2014). Addressing trauma and psychosocial development in juvenile justice-involved youth: A synthesis of the developmental neuroscience, juvenile justice and trauma literature. *Laws*, 3, 744-758.

¹⁵ Tolliver, D. G., Bath, E. B., Abrams, L. S., Barnert, E. (2021). Addressing Child Mental Health by Creating a National Minimum Age for Juvenile Justice Jurisdiction. *Journal of the American Academy of Child & Adolescent Psychiatry*. DOI:<https://doi.org/10.1016/j.jaac.2021.02.019>

¹⁶ Abrams, L. S., Barnert, E. S., Mizel, M. L., Bryan, I., Lim, L., Bedros, A., Soung, P., & Harris, M. (2018). Is a minimum age of juvenile court jurisdiction a necessary protection? A case study in the state of California. *Crime & Delinquency*, 65(14), 1976-1996.

¹⁷ Barnert, E. S., Abrams, L. S., Dudovitz, R., Coker, T. R., Bath, E., Tesema, L., Nelson, B. B., Biely, C., & Chung, P. J. (2019). What is the relationship between incarceration of children and adult health outcomes? *Academic Pediatrics*, 19(3), 342-350.

¹⁸ Thampapillai, R. (2018). The colourful truth: The reality of Indigenous overrepresentation in juvenile detention in Australia and the United States. *American Indian Law Journal*, 7(1).

¹⁹ Sittner, K. J., & Estes, M. L. (2020). Adult outcomes of justice involved Indigenous youth. *Race and Justice*.

²⁰ Abrams, Laura & Mizel, Matthew & Barnert, Elizabeth. (2021). The Criminalization of Young Children and Overrepresentation of Black Youth in the Juvenile Justice System. *Race and Social Problems*. 13. 10.1007/s12552-021-09314-7.