

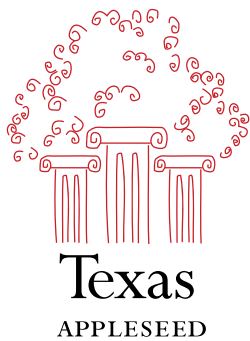


RAISE THE AGE: 17-Year-Olds in the Criminal Justice System

**ARRESTS, JAIL BOOKINGS, AND CASE OUTCOMES AMONG
17-YEAR-OLDS IN TEXAS, 2012-2015**

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RAISE THE AGE: 17-Year-Olds in the Criminal Justice System

Arrests, Jail Bookings, and Case Outcomes Among 17-year-olds in Texas, 2012-2015

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Texas is one of only seven states in which 17-year-olds accused of committing crimes are automatically shuffled into the adult criminal justice system rather than the juvenile justice system, regardless of the crime. Treating 17-year-olds as adults in the criminal justice system is out of step with the societal consensus for “maturity” as well as with research on brain development that finds youth are inherently less likely to consider the outcomes of their actions, more prone to risky behavior, and more vulnerable or susceptible to negative influences and outside pressures.¹

Sending youth into the adult system has serious consequences for their mental health and physical well-being; 17-year-olds face physical and psychological risks² when placed in adult prisons that lead to higher rates of suicide, depression, and physical and sexual victimization.³ In addition, having an adult criminal record creates future barriers to education, employment, housing, and military service.

Seventeen-year-olds are not able to vote, serve on juries, or serve in the military, yet they are treated as adults by the criminal justice system. Moreover, the crimes 17-year-olds are arrested for and the crimes for which they're booked in jail closely resemble the crimes for which younger juveniles in Texas are arrested and detained. In short, 17-year-olds are very much like their 16-year-old counterparts but they receive different treatment by the criminal justice system—treatment that leads to higher recidivism rates and more negative effects on their well-being.

The following data analysis examines the arrests (including arrests by Houston-area school district police officers), jail bookings,⁴ and case outcomes for 17-year-olds in Texas over the last four years for which complete data were available (2012-2015). Unless otherwise noted, data were obtained from the Texas Department of Criminal Justice (TDCJ), the Texas Department of Public Safety (TDPS), and the Texas Juvenile Justice Department (TJJJD).

Some top-level findings of the analysis are:

- **The majority of 17-year-olds are arrested for low-level misdemeanor offenses.**
- **Fewer 17-year-olds are being arrested each year—with a 17% decrease from 2013 to 2015.**
 - The number of arrests of 17-year-olds is closer to other juveniles than to adults or 18-year-olds.
- **The top three offenses leading to arrests of 17-year-olds were theft (20.8% of offenses), drug possession (19.1%), and assault (10.8%).**
 - For drug offenses, 75.5% of arrests were for marijuana possession, representing 14.4% of all arrests of 17-year-olds.
 - Of arrests of 17-year-olds by Independent School District (ISD) officers in the Houston area over an almost two-year period, 35.9% were for drug possession, mainly small amounts of marijuana.
- **Data from a sample of counties show an annual downward trend of 17-year-olds being booked into jail; possession of marijuana (19.3%) and theft (18.1%) were the most common offenses.**
 - The offenses most commonly resulting in jail bookings for 17-year-olds varied only slightly between counties.

These findings and the following data analysis make a compelling case for treating 17-year-olds as juveniles within the criminal justice system. The rates at which they are arrested along with the offenses for which they are booked resemble the rates and offenses for 16-year-olds; yet their different treatment leads to very different outcomes. Raising the age will ensure that 17-year-olds who are charged with a criminal offense are treated in a developmentally appropriate way.

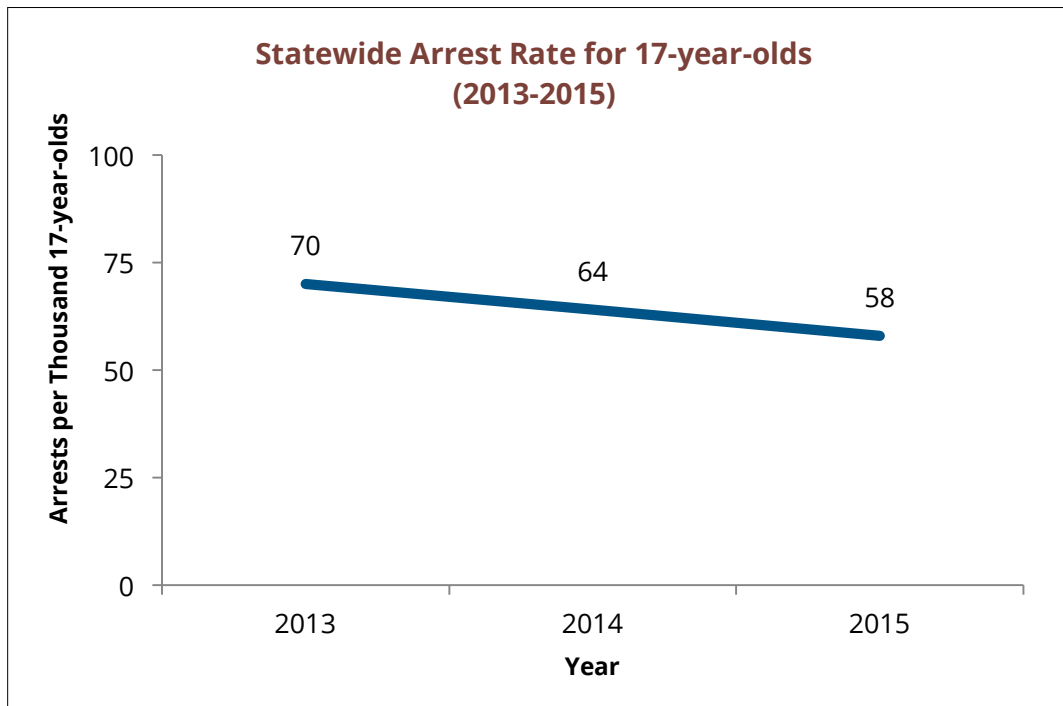
First, Texas Appleseed examined the total number of arrests of 17-year-olds statewide and by county.⁵ In 2015, there were 22,656 arrests of 17-year-olds in Texas (or about 58 arrests per 1,000 17-year-olds in the general population), marking the lowest raw total as well as the lowest *rate* at which 17-year-olds were arrested over the past three years.

Even with an increasing Texas population, fewer 17-year-olds are arrested in Texas each year and have been since 2008—the first full year following substantial juvenile justice reforms in 2007.⁶

2013: 26,543 arrests (Rate: 70 arrests per 1,000 17-year-olds)

2014: 24,503 arrests⁷ (Rate: 64 arrests per 1,000 17-year-olds)

2015: 22,656 arrests (Rate: 58 arrests per 1,000 17-year-olds)



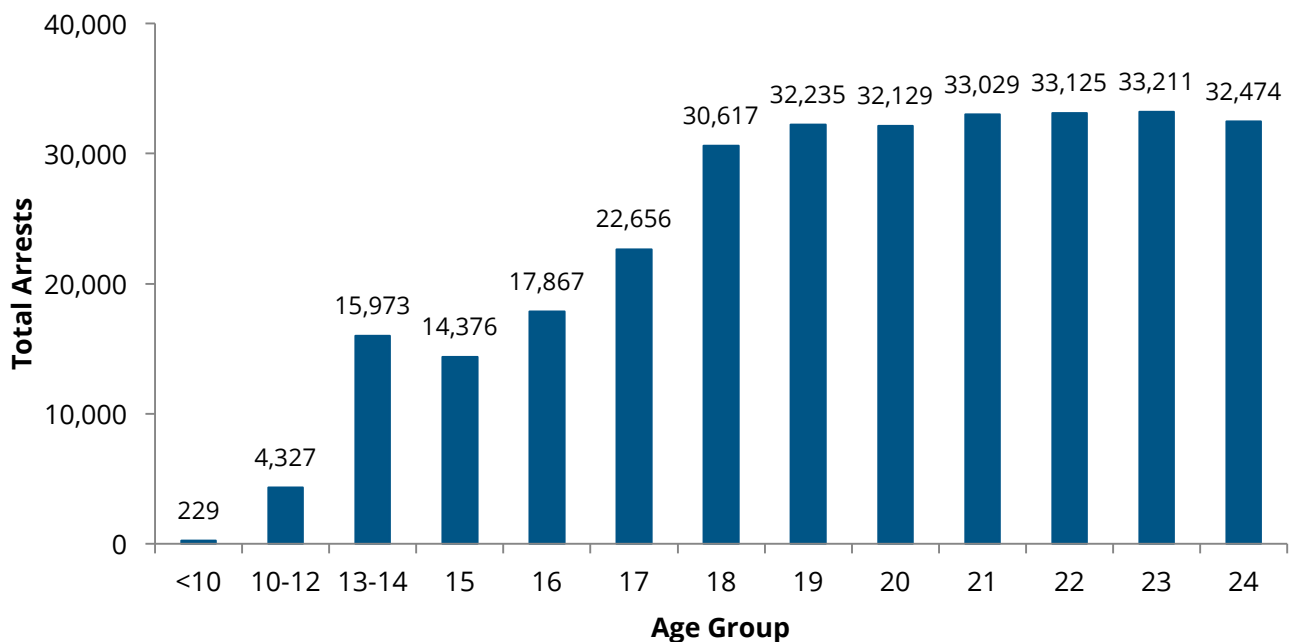
In fact, arrest rates have decreased for most age groups over the past three years, though more rapidly for younger age groups. The arrest rate for 17-year-olds decreased 17% from 2013 to 2015 compared to a 26% decrease for 16-year-olds and a 17% decrease for 18-year-olds over the same time period. **One reason for the higher decrease for 16-year-olds is likely the emphasis the juvenile system has placed over the last 10 years on research-based rehabilitation in the youth's community. Raising the age could allow Texas to see larger decreases in arrest rates for 17-year-olds.**

Recent Changes in Statewide Arrest Rates for 16-, 17- & 18-year-olds (2013-2015)

Age	Year	Total Arrests	Arrest Rate (and % Change from Previous Year)
16	2013	23,139	61 arrests per 1,000 16-year-olds
	2014	19,605	51 arrests per 1,000 16-year-olds (-16%)
	2015	17,867	45 arrests per 1,000 16-year-olds (-12%)
17	2013	26,543	70 arrests per 1,000 17-year-olds
	2014	24,503	64 arrests per 1,000 17-year-olds (-9%)
	2015	22,656	58 arrests per 1,000 17-year-olds (-9%)
18	2013	36,315	98 arrests per 1,000 18-year-olds
	2014	33,039	89 arrests per 1,000 18-year-olds (-9%)
	2015	30,617	81 arrests per 1,000 18-year-olds (-9%)

Generally, total arrests of both juveniles and adults tend to increase with age until 23 years of age. In line with this trend, 17-year-olds experienced higher total arrests than juveniles but fewer total arrests than any other group of young adults in 2015. **Notably, however, 17-year-olds frequently appear more similar to juveniles than adults in their total arrests.** A comparison by offense shows that while 16- and 17-year-olds are almost indistinguishable in terms of the offense they are arrested for, there are differences between 17-year-olds and 18-year-olds rooted in age. For example, 17-year-olds are arrested at high rates for curfew violations (which 18-year-olds are not subject to) and 18-year-olds are arrested for driving under the influence at more than twice the rate of 17-year-olds.

Statewide Arrests of Juveniles and Adults by Age Group (2015)



Texas Appleseed also examined arrests of 17-year-olds by region. In 2015, the three most populous counties in Texas—Harris County, Dallas County, and Tarrant County—arrested the most 17-year-olds statewide. After Tarrant County, arrest totals were less proportional to county size. For instance, Bexar County had the fourth largest population of 17-year-olds in 2015 but ranked #8 in total arrests, surpassed by four smaller counties. Of the 254 counties in Texas, the 10 in the chart below had the highest total arrests of 17-year-olds in 2015.

Highest Total Arrests of 17-year-olds by County, Statewide (2015)

Region	Total Arrests	Total Population	Arrest Rate
Harris County	3,545	63,663	56 arrests per 1,000 17-year-olds
Dallas County	2,245	34,476	65 arrests per 1,000 17-year-olds
Tarrant County	1,923	28,581	67 arrests per 1,000 17-year-olds
Hidalgo County	1,204	14,374	84 arrests per 1,000 17-year-olds
Travis County	1,085	13,203	82 arrests per 1,000 17-year-olds
El Paso County	923	12,741	72 arrests per 1,000 17-year-olds
Cameron County	653	7,405	88 arrests per 1,000 17-year-olds
Bexar County	566	26,790	21 arrests per 1,000 17-year-olds
Collin County	544	14,124	39 arrests per 1,000 17-year-olds
Nueces County	495	5,119	97 arrests per 1,000 17-year-olds

Accounting for population size, several smaller counties stand out for arresting 17-year-olds at particularly high rates. In 2015, each of the counties in the table below had fewer than 1,000 17-year-olds overall but had arrest rates above 0.131, or well over 100 arrests per 1,000 17-year-olds.⁸ Out of 254 counties, the 10 in the chart below had the highest arrests rates.

Highest Arrest Rates for 17-year-olds by County, Statewide (2015)

Region	Total Arrests	Total Population	Arrest Rate
Stephens County	25	129	194 arrests per 1,000 17-year-olds
La Salle County	17	94	181 arrests per 1,000 17-year-olds
Hamilton County	22	130	169 arrests per 1,000 17-year-olds
Aransas County	47	300	157 arrests per 1,000 17-year-olds
McCulloch County	21	139	151 arrests per 1,000 17-year-olds
Titus County	70	475	147 arrests per 1,000 17-year-olds
Kimble County	8	56	143 arrests per 1,000 17-year-olds
Starr County	149	1,076	138 arrests per 1,000 17-year-olds
Washington County	57	435	131 arrests per 1,000 17-year-olds
Potter County	209	1,600	131 arrests per 1,000 17-year-olds

Note: Kenedy County was excluded from this analysis due to its exceptionally small population size (n=4 17-year-olds in 2015). Although Washington County and Potter County appear to have the same arrest rate in the table above, Washington County's unrounded arrest rate was slightly higher (0.13103 versus 0.13062).

The top 20 offenses leading to arrests of 17-year-olds in 2015 are listed below. Statewide, 17-year-olds were most commonly arrested for Theft (20.8% of offenses), Drug Possession (19.1%), and Assault (10.8%).

Top 20 Offense Types Leading to Arrests of 17-year-olds, Statewide (2015)

Offense Type	Count	% All Arrests
Theft (Except Motor Vehicle)	4,714	20.8%
Drugs - Possession (All Types)	4,320	19.1%
Assault	2,456	10.8%
Drunkenness	848	3.7%
Liquor Laws	778	3.4%
Burglary - Breaking or Entering	682	3.0%
Disorderly Conduct	539	2.4%
Robbery	517	2.3%
Aggravated Assault	474	2.1%
Runaway	456	2.0%
Vandalism	424	1.9%
Motor Vehicle Theft	328	1.4%
Weapons (Carry/Possess, etc.)	317	1.4%
Driving Under the Influence	291	1.3%
Drugs - Sale/Manufacture (All Types)	258	1.1%
Curfew and Loitering Law Violations	101	0.4%
Fraud	94	0.4%
Sex Offenses (Except Rape)	67	0.3%
Stolen Property (Buy, Receive, Possess)	66	0.3%
Rape	61	0.3%

As shown below, among arrests for Drug Possession and Drug Sale/Manufacture, arrests for *possession* of marijuana were by far the most common and represent 14.4% of all arrests and 75.5% of drug possession arrests.

Drug Offenses Leading to Arrests of 17-year-olds, Statewide (2015)

Offense Type (Drug Possession Only)	Count	% All Arrests
Drugs - Possession (Marijuana)	3,260	14.4%
Drugs - Possession (Other)	1,060	4.8%

Offense Type (Drug Sale/Manufacture Only)	Count	% All Arrests
Drugs - Sale/Manufacture (Marijuana and Other Drugs)	258	1.2%

ISD Arrests of 17-year-olds

Texas Appleseed also analyzed data for arrests of 17-year-olds by ISD officers in the Houston area for an almost two-year period. The below chart shows the 15 most common alleged offenses by 17-year-olds over that time period that resulted in their arrest.

Top 15 Offenses Leading to Arrest of 17-year-olds by ISD Officer

Offense Type	Count	Percent
Drug Offenses*	305	35.9%
Assault-Bodily Injury	130	15.3%
Trespass Prop/Bldg-No Forb Ent	37	4.4%
Evading Arrest/Detention	30	3.5%
Theft - \$50-\$500	29	3.4%
Interfere Duties Pub Servant	26	3.1%
Theft >=\$100<\$750	23	2.7%
Terroristic Threat	21	2.5%
Trespass Prop/Bldg-No Depart	17	2.0%
Theft >=\$500<\$1,500	16	1.9%
Assault-Bod Inj-Pub Serv/Retal	14	1.6%
Burglary Of A Building	14	1.6%
Resist Arr-Search	11	1.3%
Evading Arrest/Detention W/Veh	8	0.9%
Assault-Family Member	7	0.8%
Robbery-Bodily Injury	7	0.8%

***Of the arrests for offenses classified above as drug offenses, 85.2% (260) were for the possession of less than 2 ounces of marijuana, a Class B misdemeanor.**

COUNTY JAIL BOOKINGS

In addition to analyzing statewide arrests, Texas Appleseed obtained case-level data regarding county jail bookings for 17-year-olds across seven sample counties.⁹ Below we examine the total number of 17-year-olds who were booked in county jails as well as county jail booking rates per 1,000 17-year-olds in the general population.

Across the regions sampled, the sheriff's offices in Jefferson County and Nueces County booked 17-year-olds at the highest rates, each with more than 70 bookings per 1,000 kids over the past four years. Notably, Jefferson County's detention rate is far above the rest, averaging 115 bookings per 1,000 17-year-olds from 2012 to 2014. Overall, the seven counties averaged **45 county jail bookings for every 1,000 17-year-olds** in their populations from 2012 to 2015.

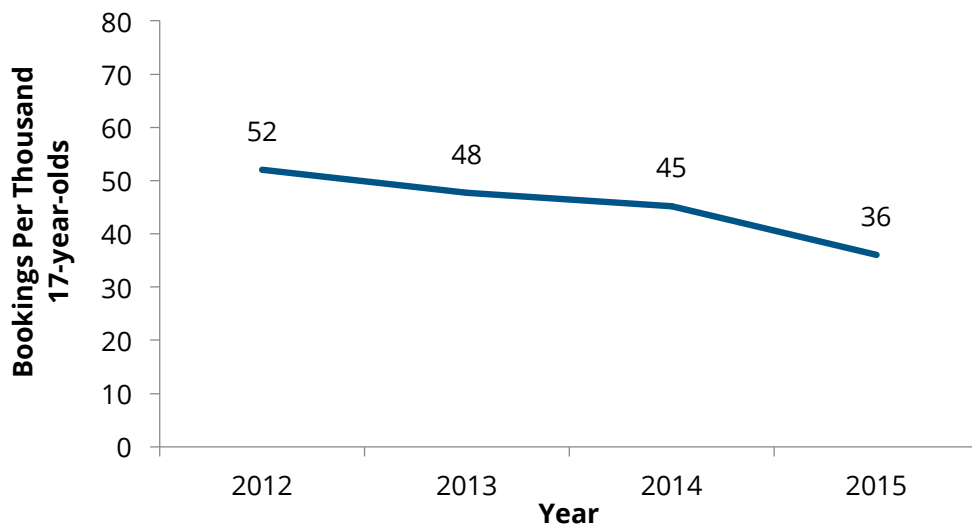
Looking at yearly fluctuations in jail booking *rates*, bookings of 17-year-olds and bookings “per capita” have decreased consistently over the past four years. The following two graphs show the **downward trend in the county jail booking rate** overall and within most of the seven counties sampled.

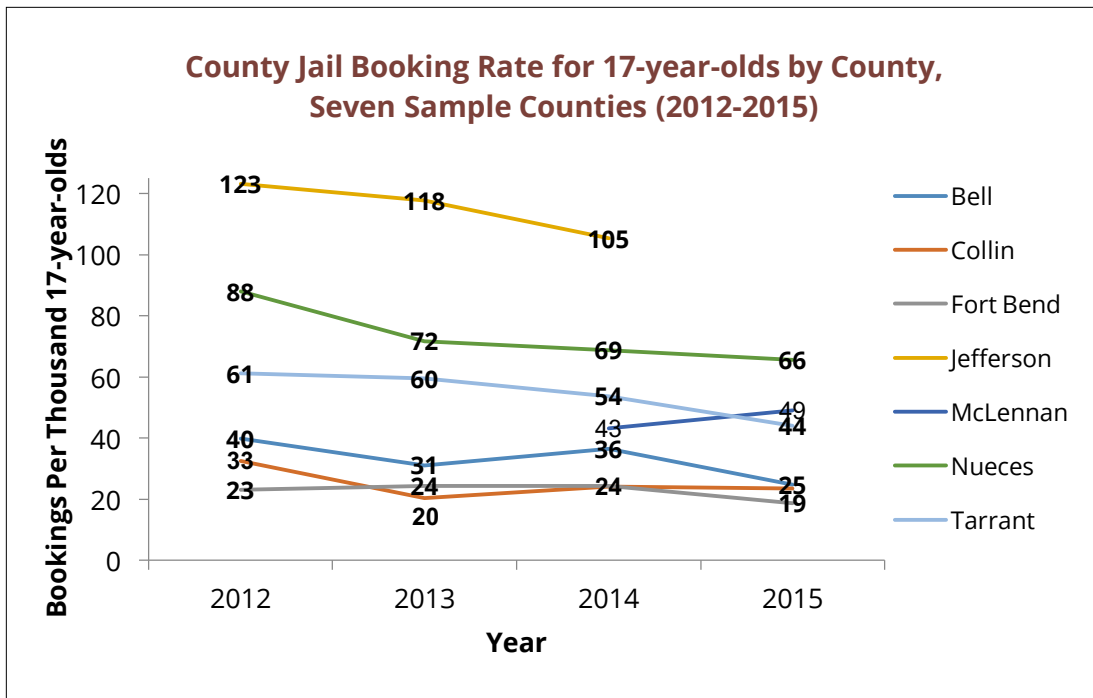
Total County Jail Bookings for 17-year-olds, Seven Sample Counties (2012-2015)

Region	2012 Total	2013 Total	2014 Total	2015 Total*	Jail Booking Rate (2012-2015 Average)
Bell County	175	132	156	55	33 bookings per 1,000 17-year-olds
Collin County	413	265	326	166	25 bookings per 1,000 17-year-olds
Fort Bend County	238	259	268	106	23 bookings per 1,000 17-year-olds
Jefferson County	420	389	353	--	115 bookings per 1,000 17-year-olds
McLennan County	110	--	143	82	41 bookings per 1,000 17-year-olds
Nueces County	435	357	342	168	73 bookings per 1,000 17-year-olds
Tarrant County	1,675	1,657	1,522	628	54 bookings per 1,000 17-year-olds

*Note: *Since our 2015 booking data ends in June, the 2015 figures above represent only half a year. For full-year 2015 estimates in the following tables, we simply doubled the 2015 figures above.*

County Jail Booking Rate for 17-year-olds, Seven Sample Counties (2012-2015)





COUNTY JAIL BOOKINGS FOR CLASS C MISDEMEANORS

Last year, Texas Appleseed requested the total number of jail bookings for Class C misdemeanors, by age, from each of the 25 largest counties in Texas. Eighteen out of 25 counties responded to our request, which together represent about 77% of the 17-year-old population statewide.

Across those 18 counties, **at least 473 17-year-olds were booked in county jails for Class C misdemeanor offenses in 2015**. That amounts to about two county jail bookings for Class C misdemeanors per 1,000 17-year-olds in their general populations, which would be a sizeable share of the overall jail booking rate described earlier in this report.

Case-level data from our seven sample counties suggest that the five most common fine-only offenses leading to county jail bookings for 17-year-olds are:

- Failure to Attend School (no longer a Class C)
- Disorderly Conduct
- Public Intoxication
- Minor in Consumption of Alcohol or Tobacco
- Traffic - Speeding

Adding to the fine-only offenses listed above, several other multi-level offenses such as Assault or Theft (which can be categorized as Class A, B, or C misdemeanors) likely contribute to county jail bookings for 17-year-olds.

**The criminal offense "Failure to Attend School" was eliminated by the Texas legislature in 2015. Due to the change in law, truancy complaints can no longer result in a jail stay.*

Texas Appleseed also identified the top offenses leading to county jail bookings. Across the seven counties, Possession of Marijuana (19.3%) and Theft (18.1%) were by far the most common offenses leading to bookings, but a high percentage of bookings were for relatively low-level offenses like Simple Assault, Petty Theft (<\$500), and Criminal Trespass.

**Top 20 Offenses Leading to County Jail Bookings Among 17-year-olds,
Seven Sample Counties (2012-2015)**

Offense Type	Count	Percent
Possession of Marijuana	2,096	19.3%
Theft	1,965	18.1%
Burglary	903	8.3%
Assault	827	7.6%
Evading Arrest or Detention	556	5.1%
Possession of Controlled Substance	452	4.2%
Criminal Trespass	378	3.5%
Traffic - Misc	342	3.2%
Failure to Identify	282	2.6%
Failure to Attend School	269	2.5%
Robbery	263	2.4%
Aggravated Assault	190	1.8%
Resisting Arrest Search or Transport	160	1.5%
Fraud	146	1.3%
Criminal Mischief	133	1.2%
Driving While Intoxicated	129	1.2%
Unlawful Carrying Weapons	127	1.2%
Disorderly Conduct	90	0.8%
Public Intoxication	90	0.8%
Failure to Appear / Viol Cont Obligation to Appear	87	0.8%

Note: The total for Failure to Attend School represents only part of the calendar year as the offense was decriminalized in 2015.

Unfortunately, our most recent county data do not consistently specify offense level per booking, so the jail booking analyses for our seven sample counties probably *underestimate* the proportion of 17-year-olds booked in jails for fine-only offenses. For that reason, we asked for additional data from a larger sample of counties for the number of 17-year-olds booked solely for Class C offenses, which is outlined in the box on the previous page.

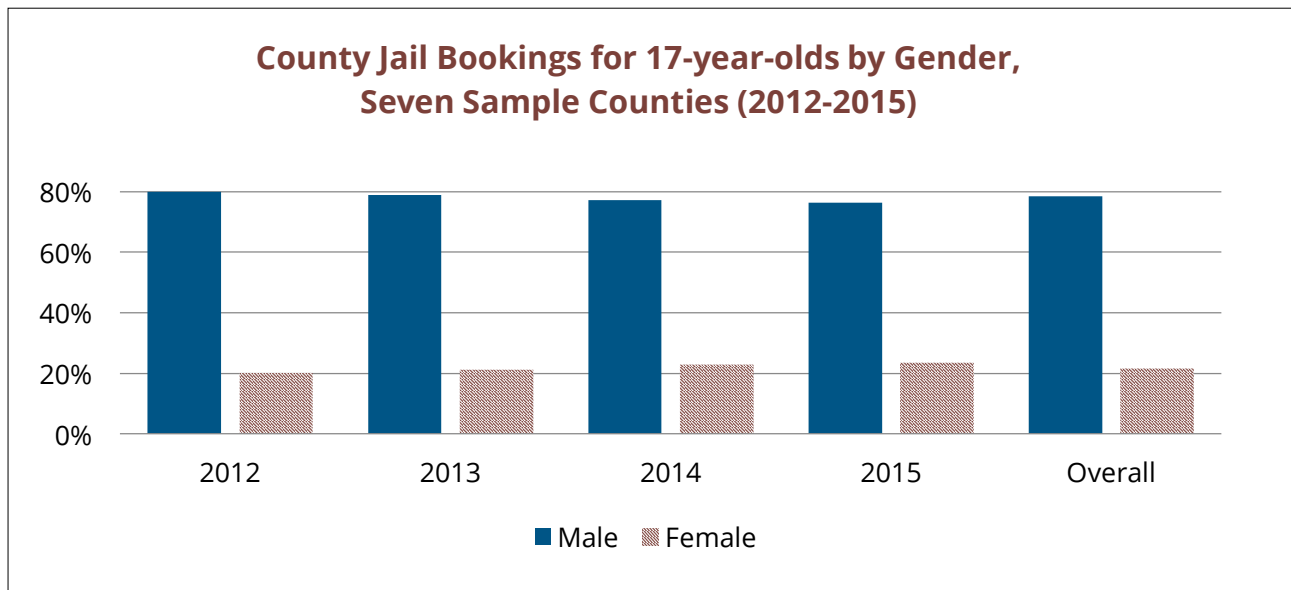
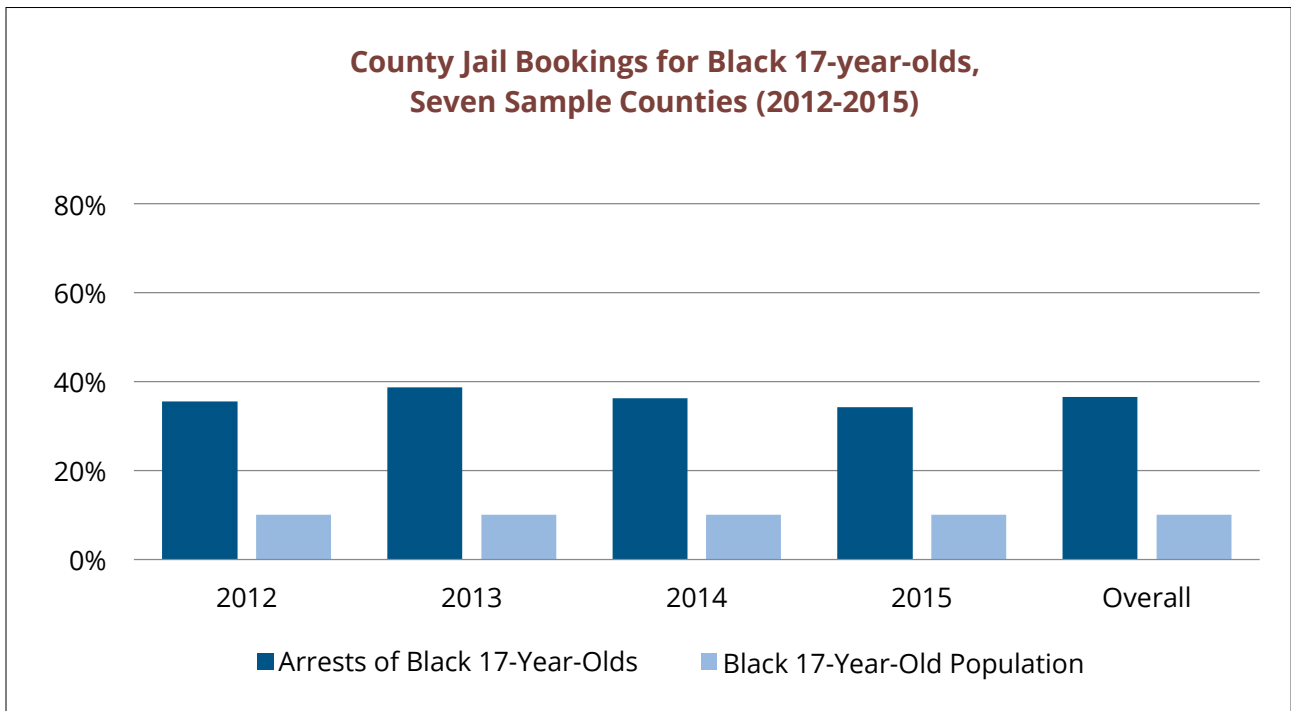
The following table shows the top 5 offenses leading to jail bookings within each of seven sampled counties.

**Top 5 Offenses Leading to County Jail Bookings for 17-year-olds by County,
Seven Sample Counties (2012-2015)**

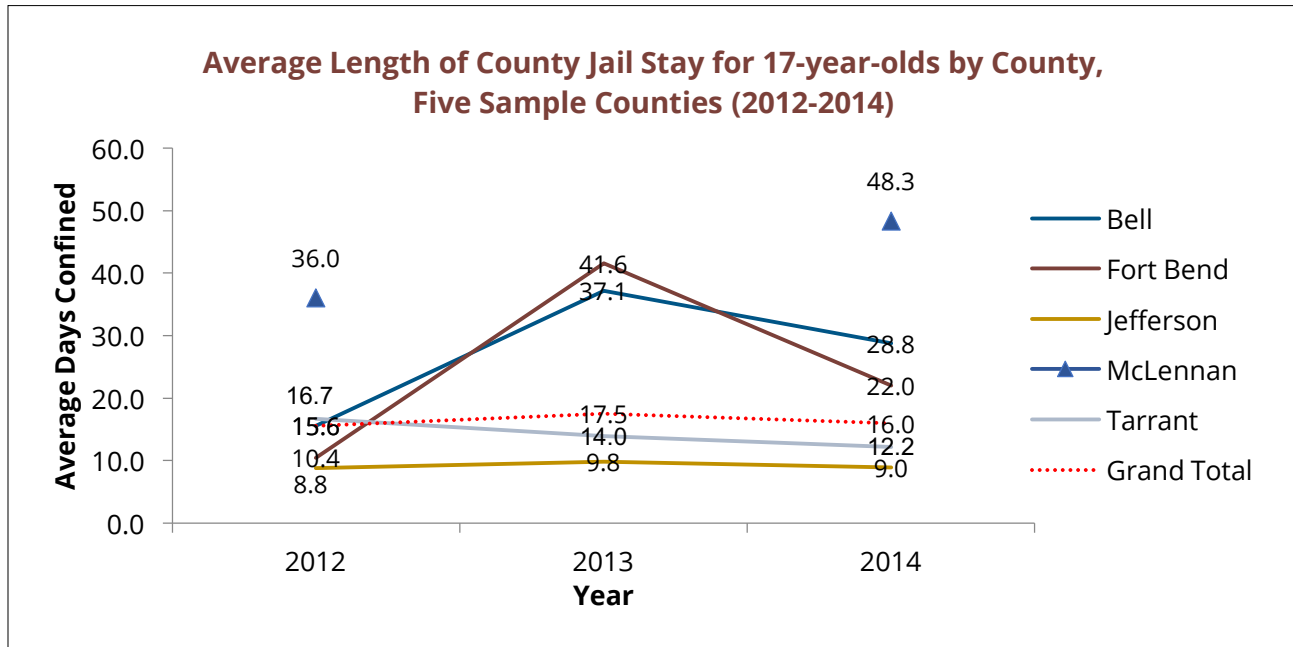
Region	Offense Type	Count	Percent
<i>Bell County</i>			
	Theft	70	13.5%
	Assault	57	11.0%
	Burglary	39	7.5%
	Evading Arrest or Detention	35	6.8%
	Criminal Trespass	33	6.4%
<i>Collin County</i>			
	Theft	183	15.6%
	Possession of Marijuana	177	15.1%
	Failure to Attend School	134	11.5%
	Traffic - Misc	88	7.5%
	Assault	81	6.9%
<i>Fort Bend County</i>			
	Possession of Marijuana	214	24.6%
	Theft	116	13.3%
	Assault	58	6.7%
	Evading Arrest or Detention	55	6.3%
	Burglary	47	5.4%
<i>Jefferson County*</i>			
	Theft	218	18.8%
	Possession of Marijuana	121	10.4%
	Failure to Attend School	111	9.6%
	Assault	94	8.1%
	Burglary	58	5.0%
<i>McLennan County*</i>			
	Assault	39	11.6%
	Possession of Marijuana	36	10.7%
	Theft	34	10.1%
	Burglary	22	6.6%
	Contempt of Court	20	6.0%
<i>Nueces County</i>			
	Possession of Marijuana	385	29.6%
	Theft	197	15.1%
	Possession of Controlled Substance	87	6.7%
	Assault	86	6.6%
	Burglary	78	6.0%
<i>Tarrant County</i>			
	Theft	1,147	20.9%
	Possession of Marijuana	1,138	20.8%
	Burglary	620	11.3%
	Assault	412	7.5%
	Evading Arrest or Detention	339	6.2%

*Note: In the table above, raw totals for Jefferson County and McLennan County represent only three out of four years. *Jefferson County's raw totals do not include 2015, and McLennan County's raw totals do not include 2013.*

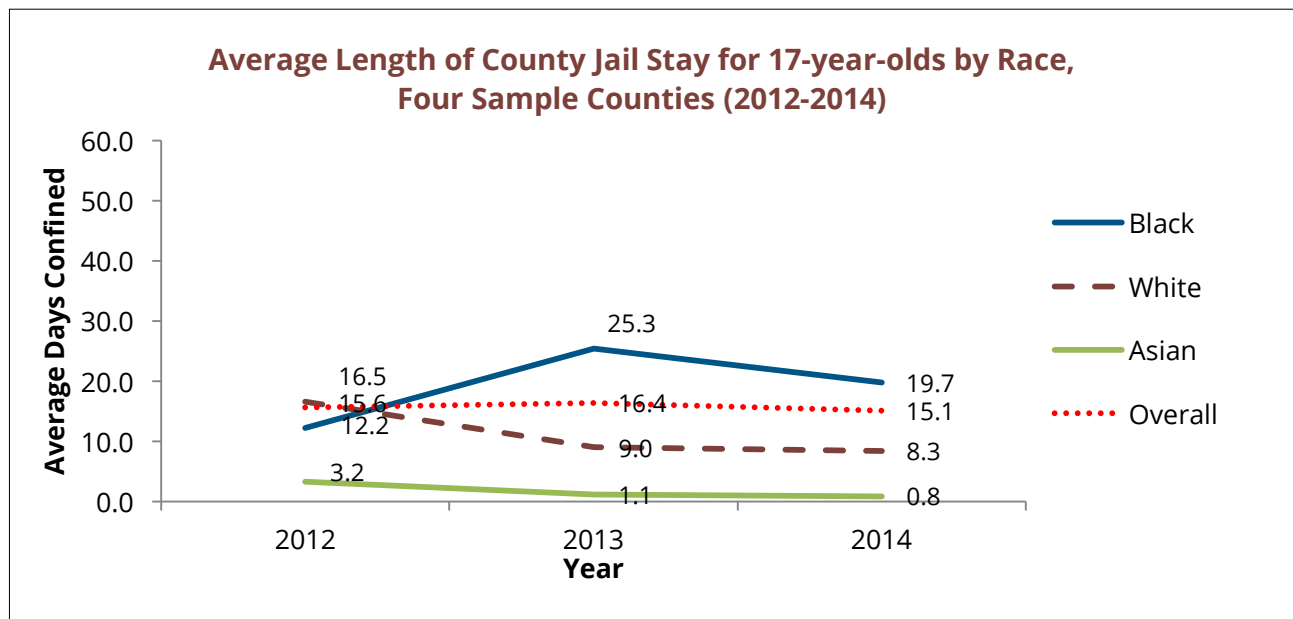
Texas Appleseed further examined county jail bookings for 17-year-olds by demographic groups.¹⁰ In jail bookings across the seven counties we sampled, 17-year-olds who are Black and 17-year-olds who are male were consistently over-represented.¹¹



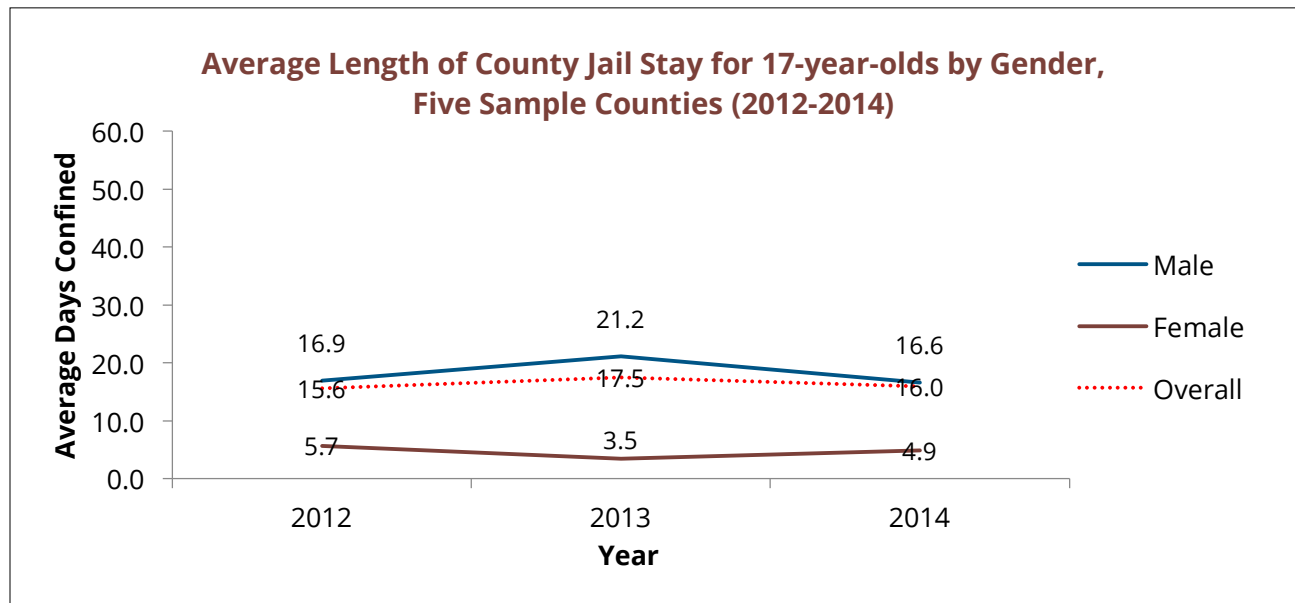
Finally, Texas Appleseed assessed the average length of stay for 17-year-olds booked in county jails. Across the five sample counties that were able to provide length of stay data, the **average length of stay was approximately 16 days**.¹² Exceptionally long jail stays in McLennan County, Bell County, and Fort Bend County appear to reflect a higher proportion of 17-year-olds booked for serious offenses in those areas compared to the four remaining counties.



Moreover, the data suggest that, for the four sample counties that provided length of stay data by *race* (McLennan, Tarrant, Fort Bend and Jefferson), the spread across racial groups has been greater in recent years than it was in 2012. In 2013 and 2014, Black 17-year-olds experienced longer county jail stays than average and far longer stays than White and Asian 17-year-olds.¹³



A similar pattern emerged from our analysis of the average length of stay by gender. Male 17-year-olds consistently experienced longer county jail stays than female 17-year-olds (though female 17-year-olds accounted for only 22% of jail stays during this time period).



There was considerable variability in length of stay across offense types.¹⁴ Among the five most common offenses, jail stays for all but one offense averaged fewer than 2 weeks each, including 6.08 days for Theft (18.7%), 3.28 days for Possession of Marijuana (18.2%), 31.55 days for Burglary (9.8%), 13.23 days for Assault (8.0%), 12.18 days for Evading Arrest or Detention (5.5%).

Top 20 Offenses Leading to Jail Stays Among 17-year-olds Across Five Sample Counties (2012-2015)

Offense	Average Length of Stay	% All Bookings
Theft	6.08	18.70%
Possession of Marijuana	3.28	18.20%
Burglary	31.55	9.80%
Assault	13.23	8.00%
Evading Arrest or Detention	12.18	5.50%
Criminal Trespass	7.35	3.70%
Possession of Controlled Substance	16.72	3.70%
Failure to Identify	12.35	2.90%
Aggravated Assault	75.21	1.70%
Fraud	14.02	1.60%
Resisting Arrest Search or Transport	11.26	1.30%
Unlawful Carrying Weapons	11.73	1.30%
Criminal Mischief	7.86	1.20%
Driving While Intoxicated	2.58	1.20%
Public Intoxication	2.9	1.00%
Disorderly Conduct	5.83	0.90%
Engaging in Organized Criminal Activity	39.03	0.80%

RESTRUCTURING THE TEXAS JUVENILE SYSTEM CREATED CAPACITY FOR 17-YEAR-OLDS

In 2007, the Texas Legislature began a process of restructuring the juvenile justice system, passing the first of several bills and budget initiatives that would move youth out of ineffective and expensive state secure facilities and into community-based alternatives. The process resulted in a 61 percent decrease in juvenile arrests between 2007 & 2015.¹⁵ At the same time, funding was shifted away from state secure facilities and into juvenile probation. A 2015 report published by the Council of State Governments (CSG) showed that per capita funding for juvenile probation departments increased 68 percent between FY 2005 & FY 2012.¹⁶

The same CSG report concluded that while the news was generally good for Texas reforms – with youth rehabilitated locally showing better outcomes than those committed to state secure facilities – there was room for improvement in recidivism rates by targeting resources and services on youth most likely to reoffend.¹⁷ Specifically, CSG found that the counties the researchers studied failed to “effectively target...[juvenile probation] supervision resources and services on those youth most likely to reoffend.”¹⁸ Instead, counties continued to place youth at low risk of reoffending in services and programs that they didn’t need – likely contributing to higher re-offense rates.¹⁹

Taken together, the large reduction in arrests, increase in funding for juvenile probation, and findings from CSG showing more opportunity to effectively utilize state taxpayer dollars indicates that **Texas’ juvenile system is well-poised to absorb 17-year-olds.**²⁰

COMPARISON TO DATA FOR 16-YEAR-OLDS

As mentioned, a comparison between 17-year-olds and other offenders shows that when comparing the frequency of arrests, they more closely resemble their younger peers than older youth. A more in-depth analysis shows that they also closely resemble 16-year-olds when considering the *types* of offenses for which they are arrested and jailed. The following section compares the offenses for which 16- and 17-year-olds were arrested as well as booked. In the chart below, the top three offenses that lead to arrests of 16- and 17-year-olds were the same. Sixteen-year-olds were arrested most commonly for theft (20.2%), assault (13.7%), and drug possession (12.5%), while 17-year-olds' most common alleged offenses leading to arrest were the same with slightly different percentages: theft (20.8%), drug possession (19.1%), and assault (10.8%).

Top 20 Offense Types Leading to Arrests of 17- and 16-year-olds, Statewide (2015)

Rank	Offense Type (Age 17)	Count	% of All Arrests	Offense Type (Age 16)	Count	% of All Arrests
1	Theft (Except Motor Vehicle)	4,714	20.8%	Theft (Except Motor Vehicle)	3,613	20.2%
2	Drugs - Possession (All Types)	4,320	19.1%	Assault	2,448	13.7%
3	Assault	2,456	10.8%	Drugs-Possession	2,233	12.5%
4	Drunkenness	848	3.7%	Runaway	1,769	9.9%
5	Liquor Laws	778	3.4%	Curfew & Loitering Law Violations	1,006	5.6%
6	Burglary - Breaking or Entering	682	3.0%	Burglary-Breaking or Entering	729	4.1%
7	Disorderly Conduct	539	2.4%	Vandalism	409	2.3%
8	Robbery	517	2.3%	Robbery	406	2.3%
9	Aggravated Assault	474	2.1%	Liquor Laws	397	2.2%
10	Runaway	456	2.0%	Aggravated Assault	387	2.2%
11	Vandalism	424	1.9%	Disorderly Conduct	353	2.0%
12	Motor Vehicle Theft	328	1.4%	Motor Vehicle Theft	318	1.8%
13	Weapons (Carry/ Possess, etc.)	317	1.4%	Weapons (Carry/ Possess, etc.)	158	0.9%
14	Driving Under the Influence	291	1.3%	Drunkenness	145	0.8%
15	Drugs - Sale/ Manufacture (All Types)	258	1.1%	Drugs - Sale/ Manufacture (All Types)	135	0.8%
16	Curfew and Loitering Law Violations	101	0.4%	Sex Offenses (Except Rape)	100	0.6%
17	Fraud	94	0.4%	Driving Under the Influence	71	0.4%
18	Sex Offenses (Except Rape)	67	0.3%	Fraud	62	0.3%
19	Stolen Property (Buy, Receive, Possess)	66	0.3%	Rape	59	0.3%
20	Rape	61	0.3%	Vagrancy	57	0.3%

Next, Texas Appleseed compared the offenses of 17-year-olds booked in county jails to those of detained juveniles in 2013 in six sample counties, the latest year in which we had county-level juvenile detention data.²¹ For both age groups, Theft, Assault, and Drug Offenses were three of the four most common offenses.

In addition, detention for Violation of Court Order (VCO) was highly common among juvenile detainees. *Since detention for VCO is considered out of step with best practices, this is a clear example of an opportunity to reduce detentions of younger youth in order to free up detention beds for 17-year-olds in the event that the age is raised.*²² Opportunities like this were also emphasized by the Texas study from the Council of State Governments, which showed that while the state's juvenile justice reforms contributed to the decline in the number of commitments to state secure facilities, renewed focus at the county level on implementing research-based practices with fidelity would allow the state to recognize the full promise of its investment in community-based alternatives at the local level.²³

**Top 10 Offenses Leading to Jail Bookings for 17-year-olds
Versus Detention of All Juveniles, Six Sample Counties (2013)**

Rank	Offense (Age 17)	Percent	Offense (All Juveniles)	Percent
1	Drug Offenses	25.4%	Violation Of Court Order	22.4%
2	Theft	17.4%	Assault – Misdemeanor	18.0%
3	Burglary	9.7%	Theft – Misdemeanor	8.4%
4	Assault	7.2%	Drug Offenses – Misdemeanor	7.8%
5	Evading Arrest or Detention	5.2%	Assault – Felony	7.7%
6	Traffic - Misc	4.0%	Other Misdemeanor	7.7%
7	Criminal Trespass	3.3%	Burglary	5.6%
8	Robbery	2.9%	Contempt of Magistrate Order	3.5%
9	Aggravated Assault	2.5%	Theft – Felony	2.9%
10	Failure To Identify	2.5%	Runaway	2.8%

Note: This table shows jail booking data and juvenile detention data for only six out of seven sample counties. Corresponding data from McLennan County were not available.

These patterns appear mostly consistent across the six sampled counties.

**Top 5 Offenses Leading to Jail Bookings for 17-year-olds
Versus Detentions of All Juveniles by County, Six Sample Counties (2013)**

Rank	Offense (Age 17)	Percent	Offense (All Juveniles)	Percent
<i>Bell County</i>				
1	Assault	15.0%	Assault – Misdemeanor	22.9%
2	Theft	13.4%	Violation Of Court Order	19.3%
3	Burglary	11.0%	Burglary	12.7%
4	Evading Arrest Or Detention	10.2%	Assault – Felony	9.1%
5	Criminal Trespass	7.9%	Other Misdemeanor	9.1%
<i>Collin County</i>				
1	Drug Offenses	18.5%	Violation Of Court Order	16.1%
2	Theft	17.4%	Theft – Misdemeanor	15.2%
3	Traffic – Misc	11.7%	Assault – Misdemeanor	13.8%
4	Failure To Attend School	10.9%	Drug Offenses – Misdemeanor	13.3%
5	Assault	6.0%	Contempt Of Magistrate Order	12.4%
<i>Fort Bend County</i>				
1	Drug Offenses	26.6%	Violation Of Court Order	33.8%
2	Theft	14.3%	Assault – Misdemeanor	13.3%
3	Burglary	6.6%	Other Misdemeanor	7.9%
4	Assault	6.2%	Assault – Felony	7.4%
5	Traffic – Misc	6.2%	Drug Offenses – Misdemeanor	6.7%
<i>Jefferson County</i>				
1	Theft	18.4%	Violation Of Court Order	36.8%
2	Drug Offenses	14.7%	Assault – Misdemeanor	16.5%
3	Failure To Attend School	9.2%	Assault – Felony	9.3%
4	Assault	7.9%	Other Misdemeanor	6.5%
5	Burglary	6.3%	Burglary	5.8%

Nueces County

1	Drug Offenses	35.0%	Assault – Misdemeanor	23.5%
2	Theft	14.3%	Violation Of Court Order	15.4%
3	Burglary	7.3%	Assault – Felony	11.8%
4	Assault	7.0%	Other Misdemeanor	9.1%
5	Criminal Trespass	3.9%	Burglary	7.0%

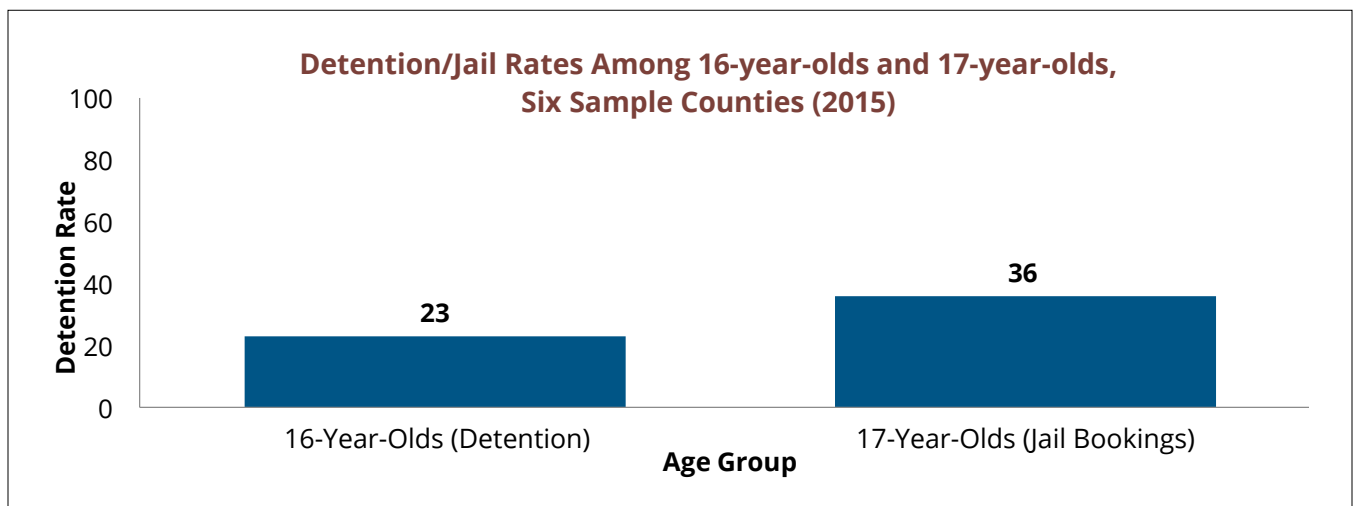
Tarrant County

1	Drug Offenses	28.2%	Violation Of Court Order	21.8%
2	Theft	18.7%	Assault – Misdemeanor	20.6%
3	Burglary	12.4%	Assault – Felony	8.9%
4	Assault	6.8%	Other Misdemeanor	8.1%
5	Evading Arrest Or Detention	5.9%	Burglary	7.4%

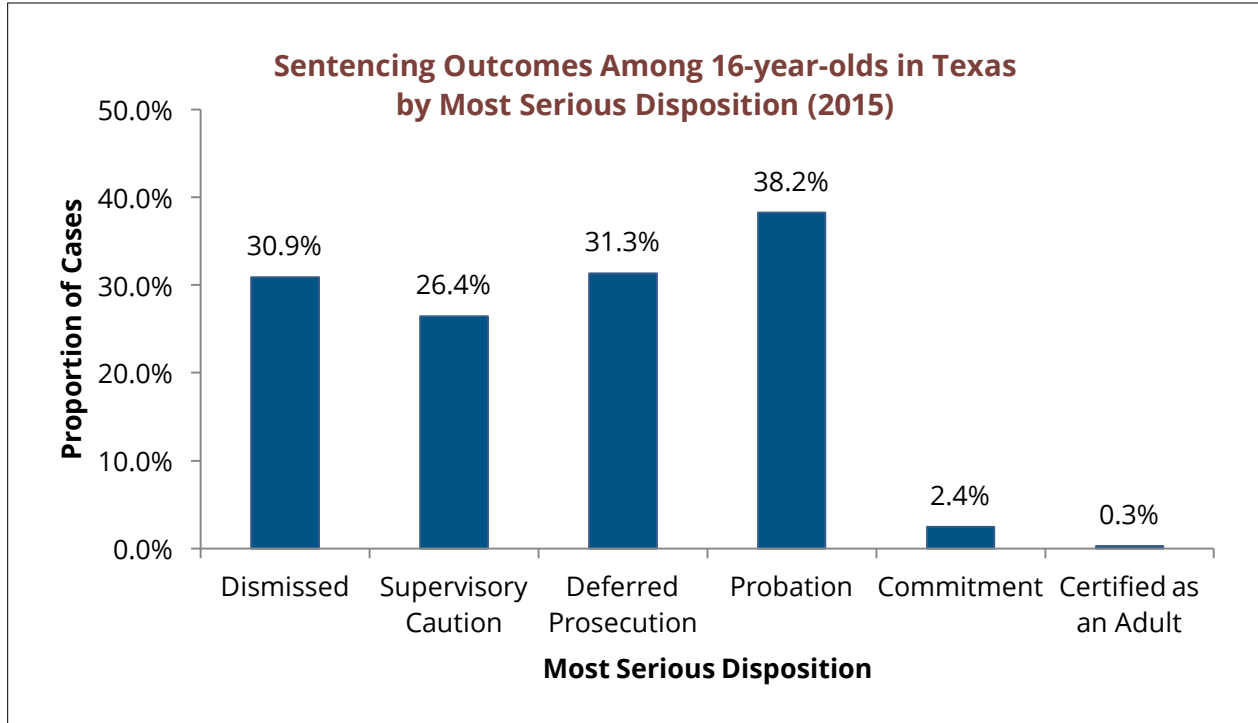
Note: This table shows booking data and juvenile detention data for only six out of seven sample counties. Corresponding data from McLennan County were not available.

CASE OUTCOMES

For an idea of the case outcomes we might expect for 17-year-olds processed in the juvenile system, Texas Applesseed examined statewide patterns in detention and sentencing of both 16- and 17-year-olds.²⁴ Texas Applesseed first compared the detention rate for 16-year-olds to the county jail booking rate for 17-year-olds. Across six of the seven counties from the jail stay sample for this report,²⁵ jail booking rates for 17-year-olds appear considerably higher than detention rates for 16-year-olds. **In short, despite the fact that crimes committed by 16- and 17-year-olds are relatively similar, 17-year-olds end up in jail more often.**



In the end, most criminal cases involving 16-year-olds were either referred to probation (38.2%), deferred prosecution (31.3%), dismissed (30.9%), or assigned “supervisory caution” (26.4%) in 2015.²⁶ Very few 16-year-olds were committed to state facilities (2.4%) or certified as adults (0.3%), suggesting that very few 17-year-olds would experience such sentencing outcomes in the juvenile system.



OUTCOMES: 16- vs. 17-YEAR-OLD

Both juniors in high school, 16-year-old Matt and 17-year-old John get caught shoplifting video games worth \$75 (a Class B misdemeanor) from the local Target. What are the differences between what they encounter in the juvenile and adult systems?



MATT: 16 YEARS OLD

Following arrest, Matt's parents are promptly notified.

- Matt is briefly placed in a juvenile detention facility, where his parents have the right to communicate with him in person privately.
- If he is in detention during school hours, he will receive educational services.
- Matt's parents are required to be in court.

Matt may be offered deferred prosecution. If he is, Matt, his parents, the prosecuting attorney, and the juvenile probation department would agree to certain probation conditions as well as counseling or other rehabilitative services. **Upon successful completion, no record would be created.**

IF MATT IS CONVICTED...

- Matt's judge can proscribe a probation sentence that includes **rehabilitative services** for him, and can require Matt's parents to participate.
- Matt's judge can always revisit the sentence to determine whether it is serving his needs adequately and revise if need be.



IF MATT VIOLATES PROBATION...

If Matt goes to a high school party where alcohol is served and violates probation, the judge can order treatment, such as alcohol education classes, before ordering him into a juvenile facility.

MATT'S OUTCOME

If Matt successfully completes his probation, the court can seal his record. No one will have access to Matt's record except law enforcement, and for law enforcement to access it, they must petition the juvenile court.



JOHN: 17 YEARS OLD

Following arrest, John's parents are NOT notified.

- John is placed in jail. He may stay for several days, without access to educational services.
- For his safety, he may be kept in solitary confinement.
- His parents are not part of the court process.

John may be offered deferred adjudication, which would keep an actual conviction from his record. Upon completion of the probation terms, he could petition the court for non-disclosure; **however law enforcement and the military will still have access to his deferred adjudication record regardless.**

IF JOHN IS CONVICTED...

- John's judge has **only probation or jail time** as options.
- John's parents cannot be ordered to participate in therapy, leaving family issues unaddressed. John's probation officer cannot talk to his parents without his permission; even then, some information cannot be released to them.



IF JOHN VIOLATES PROBATION...



If John goes to the same high school party where alcohol is served and violates probation, he would be sent straight to an adult jail.

JOHN'S OUTCOME

If John successfully completes probation, his record will still be viewable by military and law enforcement even if the court grants an order of non-disclosure. If the court does not approve the non-disclosure order, John's record can make it difficult to find a job later.

CONCLUSION

Raising the age represents another opportunity for Texas to continue its record of juvenile justice reform that embraces “smart on crime” practices that benefit both young people and taxpayers and improve public safety. This data analysis shows that 17-year-olds are much like their 16-year-old peers when it comes to offense patterns. Most of the crimes for which they are arrested for are low-level misdemeanors, dispelling concerns that raising the age would pose a significant threat to public safety. In fact, the higher decrease in arrest rates for 16-year-olds suggests that their 17-year-old peers will benefit from the more rehabilitative focus of the juvenile system, enhancing the odds that raising the age will lead to a greater reduction in crime.

While juvenile probation departments will need time to plan for the shift, the Texas-based study from the Council of State Governments²⁷ as well as current juvenile detention numbers show additional opportunities to embrace “best practices” that would help to offset the increased volume represented by raising the age.

ENDNOTES

- ¹ *Miller v. Alabama*, 132 S.Ct. 2455, 2464-65 (2012); See generally, S. Johnson, R. Blum, and J. Giedd, *Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Health Policy*, *Journal of Adolescent Health*, Vol. 45(3), September 2009.
- ² I.Y.H. Ng, X. Shen, H. Sim, R.C. Sarri, E. Stoffregen, and J.J. Shook, *Incarcerating Juveniles in Adult Prisons as a Factor in Depression*, *Criminal Behaviour and Mental Health* 21, 27 (2011).
- ³ Campaign for Youth Justice, *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America* 4 (2007), available at http://www.campaignforyouthjustice.org/Downloads/NationalReportsArticles/CFYJ-Jailing_Juveniles_Report_2007-11-15.pdf. Before they are processed in court, teens in the adult and juvenile justice systems have similar mental health diagnoses. However, after only short periods of confinement, teens in adult facilities face drastically different psychological outcomes. See also U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Detained Youth Processed in Juvenile and Adult Court: Psychiatric Disorders and Mental Health Needs* 8 (2015), available at <https://www.ojjdp.gov/pubs/248283.pdf>.
- ⁴ The data in this report for jail bookings do not distinguish between people arrested and booked prior to magistration, those who have seen a magistrate and were not released on bond, and those serving a sentence.
- ⁵ Arrest data by age and offense were obtained through public information requests to the Texas Department of Public Safety (TDPS) and from TDPS's most recent *Uniform Crime Reports* (2013, 2014, 2015), which capture 99% of arrests statewide: http://www.dps.texas.gov/administration/crime_records/pages/crimestatistics.htm.
- ⁶ Population totals by age and year were obtained from the Office of Juvenile Justice and Delinquency Prevention's "Easy Access to Juvenile Populations: 1990-2015" database: <http://www.ojjdp.gov/ojstatbb/ezapop>.
- ⁷ Arrest total for 2014 includes figures from both the Texas Department of Public Safety's standard *Uniform Crime Report* (2015) and its special 2015 addendum for rape offenses, which were calculated late due to Texas' transition to the Federal Bureau of Investigation's new definition of rape.
- ⁸ Although many of these counties had fewer than 1,000 17-year-olds in their general populations, arrest rates are presented per 1,000 17-year-olds for consistency with other sections in this report.
- ⁹ Jail stay data were obtained through public information requests to county jails (n=7).
- ¹⁰ Individual jail stays with missing gender or race data were excluded from these analyses.
- ¹¹ Latino over-representation is not shown as only one county was able to provide race data that distinguished between Latino and White 17-year-olds.
- ¹² 2015 averages were omitted from this analysis as we only obtained half a year, and the first half of each year is heavily skewed toward shorter stays.
- ¹³ Unfortunately, we were not able to perform the same analyses for Latino students as only one county distinguished between "Hispanic" and "Non-Hispanic" 17-year-olds. Therefore, the graph by race combines "Hispanic White" and "Non-Hispanic White" 17-year-olds into the category "White." It is also unclear from these data whether the racial disproportionalities shown below are due to harsher punishments for Black youth or more serious offenses among Black youth compared to other youth.
- ¹⁴ The following table only includes five out of seven sample counties: Bell, Fort Bend, Jefferson, McLennan, and Tarrant (excluding the three counties without length of stay data).
- ¹⁵ Texas Department of Public Safety, *Crime in Texas*, available at http://www.dps.texas.gov/administration/crime_records/pages/crimestatistics.htm.
- ¹⁶ The Council of State Governments Justice Center, *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms* 47 (2015).
- ¹⁷ *Id.* at 77.
- ¹⁸ *Id.*
- ¹⁹ *Id.*
- ²⁰ Assuming that every arrest in 2015 resulted in a referral to the juvenile system (an assumption that doesn't take into consideration differences in law enforcement practices for juveniles and adults, or the use of diversion programs), 17-year-olds would represent a 44 percent increase in population.
- ²¹ Data for Jefferson County are not available.
- ²² Texas Public Policy Foundation, *Kids Doing Time for What's Not a Crime* (2014), available at <http://www.texaspolicy.com/content/detail/kids-doing-time-for-whats-not-a-crime-new-data-shows-youth-incarceration-for-non-violent-offenses-continues-to-decline>.
- ²³ The Council of State Governments, *supra* note 15.
- ²⁴ Jail stay data for 16-year-olds were obtained through a public information request submitted to the Texas Juvenile Justice Department.
- ²⁵ Data for Jefferson County are not available.
- ²⁶ According to the Texas Juvenile Justice Department, 'Supervisory Caution' is a "non-judicial summary disposition made by a probation officer or other authorized intake personnel... [that] may include counseling the juvenile about the consequences of his or her conduct, contacting the juvenile's parents to inform them of the juvenile's behavior or referring the juvenile to a social service agency or a community-based first offender program run by law enforcement." See Texas Family Code Sections 52.03, 52.031, 52.032, 59.004 & 264.302.
- ²⁷ The Council of State Governments, *supra* note 15.

