

Report Says Nearly 1 in 3 Youths Arrested by Age 23

A recently released study claims that nearly 1 in 3 U.S. youths will be arrested for a non-traffic offense by age 23. The report, which was published on the site Pediatrics in December of last year, says that as many as 41 percent of youth have been arrested or taken into police custody. This data marks a sharp increase in arrests from a similar study conducted in the 1960s, which found only about 22 percent of youth would be arrested by age 23.

But legal experts who have years of experience working on juvenile criminal cases are skeptical of the findings.

“Any experienced criminal defense lawyer will tell you that overcriminalization is a problem,” says Norm Pattis, a criminal defense lawyer at the Pattis Law Firm. “But the notion that one-third of people below 23 have been arrested or taken into custody is simply a number I doubt.”

Fudging the Numbers

Though Pattis has his doubts about the statistic, he believes that if it is accurate it may have something to do with the nature of the juvenile justice system.

“I believe we are inching toward a therapeutic state where the criminal justice system is oriented less toward punishment and more toward preventing potential harm,” he says. “So every kid is perceived to be a potential criminal because of this shift from affirmative acts to a belief that potential acts may occur.”

Pattis cites as an example schools taking a zero-tolerance policy toward conduct perceived to be a threat. Many of these policies were instituted after the Columbine High School shooting in 1999.

Thomas Carr

agrees that the report seems to have flaws. He is partner at Tully Rinckey in Albany, NY where he practices criminal law

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“I read the report itself, and there are a couple of places where it references how the information may not be 100-percent reliable in the sense that they relied on young people to self-report, and they didn’t really have a valid method of checking that against crime statistics because these statistics are reported differently in different states,” he says.

Carr also takes issue with the question posed to the study’s participants, which he feels has the possibility of inflating the results.

“The question asked was whether you have ever been arrested by police or taken into custody for a delinquent or illegal offense,” Carr says. “So just being picked up by the cops

would count the same as an arrest would.”

In addition, Carr says that, anecdotally, he often sees the same youthful offenders in court over and over again, which could taint the report’s data.

“One child having multiple contacts with the police could be construed as multiple kids having a single contact, which would inflate the percentage,” Carr says.

Finally, both Pattis and Carr say that if there truly has been an increase in arrests it can be explained in part by changes to the law that have broadened the definition of what is illegal. For example, the drinking age in 1965 was not uniformly set at 21. Some states allowed adults to drink at 18. Furthermore, the legal blood-alcohol content (BAC) in many states used to be .15. That has been reduced to .08 nationally.

The Police Are Not Your Friend

Even if the actual crime rate of U.S. youths is lower than the study reports, it doesn’t take away from the fact that young people need to know what to do if they are confronted by the police.

Pattis says too often teenagers and young adults are under the false impression that the police are there to help them.

“There is an overwhelming tendency to believe that law enforcement conducting an investigation is there to be fair and impartial,” Pattis says. “Police officers are there to determine probable cause for an arrest and to then turn the case over to the prosecutors. The police are not your friend.”

Sometimes it’s not just the young that mistake the police as allies. Parents also have a tendency to make matters worse by not encouraging their children to exercise their right to remain silent.

“I think parents and young people need to understand that they are not going to help themselves by giving statements to the police,” Carr says. “Often, the parents will come down to the station, and they take the approach that if their kid just tells the truth then everything will be okay. What happens then is the young person gives a statement, and it is ultimately used against him or her in the prosecution.”

Parents should also make sure their children exercise their right to an attorney. By hiring an experienced criminal defense

lawyer, parents can help make sure the case stays within the juvenile system. Cases that remain in the juvenile justice system remain closed to the public whereas cases that are removed to an adult forum can taint a young person’s record for life.

“I think the most difficult challenge for parents is to understand your child’s errors are not a reflection on your parenting,” Pattis says. “It is so easy to break the law in the U.S. If your child has broken the law, don’t get angry, defensive or so hurt that you become irrational. Reach out to a lawyer, and the lawyer will be able to explain the options and counsel you on what to do.”