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**HEADLINE:** Q&A: Michael A. Corriero

**BYLINE:** Jeff Storey,web-editor@nylj.com, Special to the new york law journal

**BODY:**

Michael A. Corriero, 69, who served as a judge in the state court system for 28 years, vividly recalls the trial he presided over of a 13-year-old, one of the first murder cases to be prosecuted in adult court under the 1978 Juvenile Offender Law. That trial crystallized for him the problems of treating children as adults in the criminal justice system—the effect of their immaturity on the admissibility of incriminating statements, their interactions with counsel and their understanding of the consequences of their behavior.

A graduate of St. John's University School of Law, Mr. Corriero saw many kids like that during the years he presided over a Supreme Court Youth Part that heard the cases of 13-, 14- and 15-year-olds charged as adults with the most serious and violent crimes. He has used his judicial experience as a blueprint to change a system that forced him to imprison rather than to rehabilitate "misguided children."

Mr. Corriero discusses his Youth Part experiences in a book he wrote called "Judging Children as Children" (Temple University Press, 2006). As the executive director and founder of the New York Center for Juvenile Justice, [www.nycjj.org](http://www.nycjj.org), he has been successful in getting a hearing for a proposal to raise the age of criminal responsibility—usually 16 but even younger for those who commit the most serious crimes—coupled with beefed up alternatives to incarceration.

Mr. Corriero holds as an article of faith the sentiment expressed in the majority opinion of a U.S. Supreme Court ruling that held it was unconstitutional to execute juveniles under the age of 18 (*Roper v. Simmons*, 543 U.S. 551 [2005]):

"From a moral standpoint, it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed."

The Law Journal spoke with Mr. Corriero in the wake of Chief Judge Jonathan Lippman's proposal to create a statewide Youth Court.

Q: How did you develop your interest in youth crime?

A: I grew up on the fifth floor of a tenement building in Little Italy, literally across the street from the "Tombs," as the Manhattan House of Detention was known. We lived in three small rooms; my father was a longshoreman, my mother was a seamstress. Although they were not formally educated, they recognized the importance of offering me the best education that they could afford. As a teenager, I saw how easily a careless choice could change the course of one's life. I was fortunate that my parents understood the value of education and they prepared me as best they could for those inevitable moments in time when as a teenager I would be confronted with choices.

I was lucky. New York is one of only two states in the entire nation that sets the age of criminal responsibility as low as age 16, and further permits the criminalization of children as young as 13 if accused of certain offenses.

In my view, we are criminalizing too many young offenders, and not intervening effectively in their lives when they first encounter the court system.

Q: You spent 16 years presiding over the youth part in Manhattan Supreme Court. How did you approach that task? What did you learn?

A: My approach in the Youth Part was to try to reach as many kids as possible and help them turn their lives around. In order to do that, we developed a process to help us identify those children that we could safely channel out of the system by linking them with alternative-to-incarceration programs and carefully monitoring their performance.

I have always believed that paying attention is the best alternative to detention. In the Youth Part, we developed a process to help us do just that. The programs played an important role in that process. I considered them unofficial extensions of the court. They helped juveniles gain insight and learn skills, enabling them to better manage their behavior and provided them with an opportunity to develop a historical record of positive behavior, permitting me to grant many of them a second chance through adjudication as a youthful offender.

This was a difficult challenge. Since these children were being tried as adults, my capacity to intervene was significantly limited by the operation of two laws that shaped the lens by which we viewed, treated and judged the children who came into contact with the adult criminal justice system.

As a result of New York's low age of criminal responsibility and the Juvenile Offender Law (Penal Law §70.05), many young people who could benefit from the social-service orientation of Family Court are deprived of an opportunity to receive productive intervention only available through the Family Court Act. The alternative-to-incarceration programs we relied upon to provide developmentally sensitive interventions were not an official part of the system. They were often supported financially by private donors and subject to the fragility and inconsistency of that funding. Moreover, the system itself, the legal framework under which we adjudicated the cases of children in trouble with the law, carried a presumptive punitive response to their offenses.

Q: Why did you establish the New York Center for Juvenile Justice?

A: We established the center to remedy this situation and we believe that a crucial element of that remedy is legislation that will raise the age of criminal responsibility to 18. This would bring New York into conformity with the overwhelming national consensus that children under 18, in the first instance, should have their cases referred to the Family Court, and only children whose crimes are so horrendous and backgrounds so disturbed that they would not be

amenable to the services of the Family Court Act or the Juvenile Court should be tried in adult courts where they could be exposed to greater periods of secure treatment.

Q: What is the center's principal focus?

A: The center has been engaged in an extensive advocacy effort to raise awareness about these issues and promote a model of juvenile justice that will enable New York to more effectively deal with young offenders. We have traveled across the state speaking to grassroots organizations, policy makers and system stakeholders, presenting our arguments for raising the age of criminal responsibility. That is why we were so pleased that in September Chief Judge Jonathan Lippman officially and publicly recognized the significance of this issue.

The efficacy of our proposal will be demonstrated through a project that we are involved in with the New York Foundling-to make available in the adult courts the therapeutic, evidence-based models of intervention that the Foundling has so successfully used in the Family Court to help juvenile delinquents and their families overcome the issues that brought them to the attention of the court.

Q: Why is it a good idea to raise the age of criminal responsibility?

A: We are losing the opportunity to intervene constructively with too many young people in our state who come into contact with law enforcement. The idea of criminalizing or institutionalizing youths as young as 14 and 15, without first making every effort to address the reasons behind their anti-social behavior, is a convenient but fatal flaw in our effort to increase public safety.

In New York in 2010, approximately 46,000 arrests of 16- and 17-years-olds were adjudicated pursuant to laws and sentences initially designed for adults. In my view, these are 46,000 missed opportunities to effectively intervene in the lives of misguided children.

Q: What do you think of Judge Lippman's proposal to establish a youth court for offenses committed by 16- and 17-year-olds? Does it go far enough?

A: Judge Lippman's proposed legislation would raise the age of criminal responsibility from 16 to 18 for adolescents accused of nonviolent offenses-approximately 40,000 of the 46,000 adjudicated each year as adults.

Although Judge Lippman's proposal does not raise the age of criminal responsibility for all youth under 18, the New York Center for Juvenile Justice views his proposal as a promising preliminary step in that direction. By offering to raise the age of criminal responsibility for so many 16- and 17-year-olds who come into contact with the adult criminal court, the chief judge has ignited a robust and productive discussion of the long-term challenges facing the teenagers in the system who, up until the present, have uniformly been perceived and treated as adults.

Q: You have been involved in training judges who are running pilot youth courts. What does a judge need before he or she can succeed in that role?

A: Obviously, judges sitting in that type of court need to be committed to working with young offenders and be sensitive to issues that affect the developmental differences between children and adults such as impulsivity, lack of judgment and vulnerability to peer pressure.

Judges also need to be aware of the range of options and interventions that have been proven to constructively affect young offenders. By raising the age in New York, we would be able to ensure that judges reflect in their decisions the rationale behind that concept, and also have available dispositional options that will permit developmentally sensitive responses to the offenses of young offenders.

Q: How is that different from a judge in adult court?

A: It does not necessarily imply a different judicial temperament or attitude, but it is a matter of capacity and judicial responsiveness to the different issues presented by the prosecution of adolescents as compared to adult offenders. Under current law, adult court judges do not have the tools necessary to properly respond to the problems of young offenders. Judges who determine that rehabilitative services are warranted in a given adolescent's case are left to their own devices and improvisational skills to craft a disposition that integrates participation in a program, pending a statutorily authorized sentence.

Q: In your book, you say that youth courts must "look forward"? What does that mean?

A: A judge presiding over the case of a youth needs to consider not only the nature of the offense, but the nature of the offender. The Youth Part's orientation was to look forward, that is, to prepare the juvenile for the future. Once guilt was established, the challenge, as I saw it, was to craft and supervise an intervention that would change the child's behavior.

Unfortunately, our current law and the laws under which we were operating made it difficult, and in some cases impossible, to link a child with appropriate intervention services. That is why it is so important to raise the age of criminal responsibility in New York, so that opening the Family Court's therapeutic services to all children under 18 will essentially transform the culture and prosecution of minors from an intrinsically punitive approach to a rehabilitative-based model. This revision will have a complementary impact on the collateral consequences of youth misconduct by reducing the unnecessary criminalization of many youth currently subject to adult jurisdiction. This approach is consistent with the U.S. Supreme Court's jurisprudence as reflected in a series of cases exemplified by the decision of the court in *Roper v. Simmons*.

Q: How can we measure the performance of youth courts? Are there any hard numbers that bear on the question?

A: There is ample research showing that a Juvenile Court or a Family Court provides better outcomes for children and public safety than the adult court system. For example, the Department of Justice, the Federal Center for Disease Control, and The Brookings Institution have all issued reports confirming that trying minors as adults in adult courts does not work. In fact, these studies establish that young people tried in adult court are much more likely to reoffend.

Perhaps the most compelling evidence of the deficiencies of New York's current approach to the sentencing of minors is demonstrated by a research project sponsored by the MacArthur Foundation. This project compared the cases of a sample of youth adjudicated in New York courts with a significantly matched sample of youth, accused of similar offenses, in New Jersey. In New Jersey, the age of criminal responsibility is 18. The researchers found that youth prosecuted in the adult courts of New York were 85 percent more likely to be rearrested for violent crimes than those prosecuted in the New Jersey Juvenile Courts, and 44 percent more likely to be rearrested for felony property crimes.

Q: Don't some youths need to be punished-incarcerated-before they can 'learn their lesson'?

A: Obviously, there are certain young people whose offenses are so horrendous and their backgrounds so damaged that we have no recourse but to confine them. However, our low age of criminal responsibility and Juvenile Offender Law often sweep up into the system, because of their indiscriminate and essentially arbitrary application, many children whose involvement in a crime is essentially based on accomplice liability and often little more than mere presence qualifies them for prosecution as adults, regardless of their individuality, regardless of their potential, and regardless of the extent of their involvement in the underlying crime.

Q: Why is there such an appetite for juvenile justice reform?

A: It is becoming increasingly apparent that New York's approach to dealing with young offenders is incongruous with research on adolescent behavior and studies demonstrating that the prosecution of children in adult courts is not effective. New York's approach is also incongruous with nearly every other state in the nation. If North Carolina, the only other state in the nation that currently sets the age of criminal responsibility at 16, passes legislation currently pending before its legislature, New York will become isolated in our approach and achieve the unwanted distinction, in

my view, as the only state in America that sets the age of criminal responsibility at 16.

As more and more kids are criminalized and more and more families and communities are affected by this misguided approach, we are now reaching the point of critical mass where the people will demand that children be treated with the respect and sensitivity with which they are due.

@Jeff Storey can be contacted at [jstorey@alm.com](mailto:jstorey@alm.com) .

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