

PHR

Physicians for
Human Rights

Youth in the Adult Criminal Justice System *Health and Human Rights Risks*

The juvenile justice system was created over 100 years ago to address the unique needs of young people charged with criminal offenses. High crime rates in the late 1980s, however, led to swift reform to “get tough” on crime. As a result, thousands of children are now prosecuted, sentenced and incarcerated in the dangerous and punitive adult criminal justice system. Although transfer to the adult system is intended for the most serious, chronic and violent juvenile offenders, *the majority of young people tried as adults are arrested for minor, nonviolent crimes.* Children should be held accountable for their actions, but treating them as criminal *adults* does not adequately consider their capacity, healthy development or potential for rehabilitation.

Children who are detained or incarcerated in adult facilities are twice as likely to be beaten by staff, 50% more likely to be attacked with a weapon, and 8 times more likely to commit suicide than children in juvenile facilities.

An Alarming Trend

Since 1992, nearly all states have enacted policies that make it easier to prosecute youth as adult criminals and incarcerate them in adult prisons.

- Most states have lowered, if not eliminated, the age at which a child can be tried as an adult for serious crimes.
- Thirteen states have policies that treat 16- and/or 17-year olds as adults for *any* offense.
- The criteria for transfer to the adult system has expanded to include non-violent and first-time offenders.
- In the past, judges decided which cases would be transferred; now, 85% of transfer decisions are made by prosecutors, who are more likely to pursue the most punitive option.

Risks to Children’s Health

Treating children as adults has dangerous, sometimes deadly, consequences. The adult system is not designed nor equipped to address developmental needs of adolescents, allowing them to fall into a dangerous gap in services, education, and healthcare. Harsh environments, such as adult jails and prisons, are likely to interfere with children’s cognitive, emotional and psychological development. Such consequences may contribute to long-term criminality.

These Policies Violate Human Rights

Because of their relative immaturity, children have long been denied the responsibilities of adulthood, including the right to vote, serve in the military, enter into contracts, serve on juries, drink alcohol, and make medical decisions.

Yet the United States defies international human rights guidelines by “*reserving the right, in exceptional circumstances, to treat juvenile as adults*” for the purposes of sentencing, pretrial detention and incarceration.

Because of the risks associated with this policy, federal guidelines (JJJPA, 2002) were established to prohibit, with certain exceptions, the use of adult jails and prisons for the incarceration of children. At the least, youth must be separated by “sight and sound” from adult detainees. Far from “exceptional circumstances,” there was a *208% increase* in the number of youth under age 18 in adult jails between 1990-2004.

Adult Convictions Jeopardize Children’s Rights and Futures

Adult convictions have lasting consequences. In most states, adult convictions limit eligibility for education, financial aid, employment, housing, military service, and civic engagement, further alienating youth from mainstream society and setting them up to fail.

Youth in the Adult Criminal Justice System

Harsh Policies Don't Work!

Although policies allowing children to be tried as adults were developed in response to public safety concerns, they have not had the desired effect. Research indicates that children in the adult criminal system, as compared to their counterparts with similar offenses in the juvenile system, are *more likely to be re-arrested, commit more serious new offenses, and re-offend more quickly.*

Public Sharply Disagrees with Adult Treatment

In a 2007 poll commissioned by the National Council on Crime and Delinquency, 68% of respondents disagreed that incarcerating children in adult facilities “teaches them a lesson and deters them from committing future crimes.” In fact, 7 out of 10 respondents felt that incarcerating youth as adults will make them more likely to commit future crime; 66% said it was unacceptable that a criminal conviction should negatively affect future opportunities for jobs and education; and 92% felt that the decision to transfer youth to adult court should be made on a case-by-case basis, rather than automatic transfer based on age or offense.

In contrast, 9 out of 10 respondents believe that rehabilitation and treatment can help prevent future crime, and 8 out of 10 thought spending money on rehabilitative services and treatment for youth will save money in the long run.

Health Professionals, YOU Can Make a Difference!

Health professionals can speak with authority on the physical, mental and emotional health of children and can advocate effectively for developmentally-appropriate services that meet youths' needs. **Take action** to support the health and human rights of youth in the justice system:

- Sign up to receive action alerts from PHR
- Arrange Grand Rounds on health issues of incarcerated youth
- Call legislators to support scientific and humane reform
- Write letters to the Editor and Op-Eds that highlight these issues
- Contact your local juvenile court or advocacy group to volunteer
- Monitor local detention facilities to learn first-hand about conditions
- Join PHR and support the Health and Justice for Youth Campaign

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Complete references available on website

Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

International Covenant on Civil and Political Rights, Article 10(3)

A Scientific Basis for Reform

Not only is adult treatment inappropriate, but children simply do not have the maturity to be held to the same standard of culpability as adults. Emerging neuro-scientific research reveals that young people's brains are not fully developed to allow for adult level reasoning and weighing of consequences. Executive functions, including decision-making, consideration of alternatives, planning, setting long-range goals, and organization of sequential behavior, are associated with the prefrontal cortex, which *does not fully mature until well beyond age eighteen.*

Health Professionals Can Take Action

Health professionals can—and must—help protect youth by advocating for medically and scientifically sound reforms. Adolescence is a period of rapid developmental growth that is greatly affected by environmental influences. Developmentally, children have the potential to make positive change if exposed to a nurturing environment and appropriate treatment services—options not available in the adult system.

Health & Justice for Youth Fact Sheets

- Health & Human Rights
- Youth in the Adult Criminal System
- Adolescent Brain Development
- Mental Health Needs of Youth
- Youth of Color in the Justice System
- Girls in the Justice System



Youth in the Adult Criminal Justice System

This fact sheet was developed using the following sources:

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Campaign for Youth Justice. Available at: <http://www.campaign4youthjustice.org/>

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Forst, M., Fagan, J., and Vivona, S.T. (1989). "Youth in prisons and training schools: Perceptions and consequences of the treatment-custody dichotomy." *Juvenile and Family Court Journal* 40(1):1-14.

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