

Juveniles in the Justice System: New Evidence from Research on Adolescent Development

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Last year in Wisconsin, 6,083 17-year-olds were prosecuted in adult court. Studies show that juveniles differ from adults in ways that might affect their culpability, competence to stand trial, and response to treatment. For example, adolescent intelligence mirrors that of adults by age 16, but their psychosocial maturity is not fully developed until early adulthood. Adolescents may exercise poor judgment because they are impulsive, vulnerable to peer pressure, do not look long enough into the future, and tend to underestimate the risks of a crime and overestimate its rewards. Given their immaturity, youth under age 15 are not able to participate competently in criminal proceedings. Yet adolescents do know right from wrong and should be held accountable for their crimes. Of serious youth offenders, most can turn their lives around, with only 10% becoming chronic, frequent offenders. Parents, through close monitoring, can help steer youth away from trouble. However, prosecuting youth in adult rather than juvenile court does not serve as a deterrent, with research showing it leads to more frequent and serious crimes six years later.

Developing a just, effective juvenile justice system has proven extraordinarily difficult. Policymakers face the challenge of balancing two opposing themes—the welfare of young offenders and the protection of public safety. During the past century, juvenile justice policy has swung like a pendulum from one theme to the other.¹

Throughout most of the 20th century, nearly every state in the nation prosecuted almost all minors who violated the law in juvenile court. The courts focused, not on punishment, but on protection, treatment, and rehabilitation.² In the 1980s, violent juvenile crime skyrocketed and, right along with it, concerns about public safety. In response, legislatures in 46 states lowered the age for trying juveniles in adult court, broadened the circumstances for waiving youth into adult court, and increased the severity of penalties faced by youth in both juvenile and adult court. In the U.S., more than 200,000 youth under age 18 are tried in adult criminal court each year.³ In Wisconsin, 6,386 youth under age 18 were tried in adult court in 2006; this number includes 303 juveniles 16 and under who were transferred into adult court,⁴ and 6,083 17-year-olds who were automatically prosecuted in adult court under Wisconsin law.⁵ In 2005, there were 27,108 arrests of 17-year-olds in Wisconsin and 122 were sent to adult prison.⁶

When delinquent youth were processed in a juvenile system focused primarily on rehabilitation, the maturity of adolescents was not an especially important issue; after all, the juvenile system was established precisely because it was recognized that adolescents are less mature than adults. As juveniles are increasingly waived into adult court, questions about their culpability (i.e., blameworthiness for the crimes they commit) and their competence to participate in legal proceedings,

In Wisconsin, 6,083 17-year-olds were prosecuted in adult court in 2006.

become more important. The decisions these youth make now have enormous implications for their future.⁷

This paper draws on the latest research on adolescent development and legal scholarship to address five questions that policymakers in Wisconsin and across the country are asking about the juvenile justice system:

- At what ages and in what ways do adolescents differ from adults? Do these differences affect their culpability (i.e., blameworthiness) for the crimes they commit?
- Should adolescents be held as accountable as adults when they commit comparable crimes?
- Are adolescents able to participate as competent defendants in criminal proceedings?
- Can juvenile offenders be reformed? Is the juvenile or adult system more effective in deterring repeat crimes?
- How are state legislatures responding to this new evidence on adolescent development?

At What Ages and in What Ways do Adolescents Differ From Adults? Do these Differences Affect Their Culpability (i.e., Blameworthiness) for the Crimes They Commit?

One pillar of the U.S. legal system is that criminal punishment is based not only on the harm caused, but also on the culpability or blameworthiness of the person involved. For example, a person who robs a store with a gun to his head is punished less severely than another who willingly commits robbery. Traditionally, the courts have considered several categories of mitigating factors—factors that may affect how serious the offense is and how much punishment the offender should receive:

- Impaired decision-making (e.g., mental illness or mental retardation)
- Circumstances of the offense (e.g., threats, extreme need)
- The offender’s character (e.g. whether the offense was out-of-character and not likely to happen again)⁸

Should adolescent immaturity be added to this list of factors that the legal system takes into account? To help policymakers consider this question, the MacArthur Research Foundation on Adolescent Development and Juvenile Justice conducted a number of studies that are reviewed below.

Scientists have examined how adolescent’s thinking compares to that of adults. Because adolescents may commit a crime on the spur of the moment, however, it is also important to consider other psychological and social characteristics that influence their behavior, referred to as psychosocial maturity.

Mature intellectual ability. Studies have examined the intellectual ability of adolescents, specifically their intelligence and ability to reason. By the age of 16, adolescent thinking “closely mirrors that of adults”⁹ (see Figure 1).

By age 16, adolescent thinking closely mirrors that of adults.

Short-sighted decisionmaking. Adolescents are less likely to base decisions on future consequences than adults are. When asked how they think about taking risks, adolescents weigh short-term consequences—both risks and rewards—more heavily than longer-term ones. For example, when asked if they would prefer \$100 today or \$1,000 a year from now, adolescents more than adults opt for taking less money immediately rather than waiting for a larger sum.¹⁰

In studies of risk-taking, adolescents are also less sensitive to risks and more sensitive to rewards. When faced with a potentially risky situation, such as participating in a study of a new drug, adolescents mention fewer potential risks than adults do. In gambling situations, adolescents make decisions based more heavily on rewards than risks.¹¹

How might this affect decisions about crime? Adolescents may not make good decisions because they do not look long enough into the future. This lack of foresight, when combined with a desire for short-term rewards, may lead to bad judgment.¹²

Poor impulse control. With age, adolescents become less impulsive and less likely to seek thrills. To measure impulse control, researchers asked adolescents to solve a puzzle in as few moves as possible; a wrong move required extra moves to undo it. Adolescents take less time to consider their first move than adults do. Any adult who has played chess with an adolescent may have noticed this same impulsiveness.¹³

To examine mood swings, researchers page adolescents several times a day and ask them to report on their emotions and activities. Adolescents report more rapid and extreme mood swings than adults do.¹⁴

What does this mean in the real world? Sound decisions may be impaired by adolescent impulsiveness and emotional arousal. Juveniles' tendency to underestimate the risks of a crime and overestimate its rewards may contribute to a knee-jerk decision they may regret later.¹⁵

Vulnerability to peer pressure. Peers can pressure adolescents into taking risks that they otherwise might not take. Imagine that an adolescent is hanging out with his friends. On the spur of the moment, a friend suggests robbing a passerby to get money to buy beer. The adolescent does not go through a deliberate decision-making process, but goes along with his friends despite his mixed feelings. If he refuses, he fears his standing among his peers may suffer. A more mature person might think of ways to remove himself from the situation. An immature person facing a split-second decision might yield because of his inexperience in similar situations and inability to imagine future consequences. Moreover, the immediate rewards are many—the excitement of the potential robbery, the prospects of getting some money, and the approval of friends. These immediate rewards weigh more heavily in the decision than the long-term consequence of being convicted of a crime.¹⁶

To test the influence of peers, we conducted a study in which adolescents, college undergrads, and adults were asked to play several risk-taking games either alone or with two of their friends watching. The mere presence of friends increased risk taking in adolescents and college undergraduates, but not in adults.¹⁷

Adolescents underestimate the risks of a crime and overestimate its rewards.

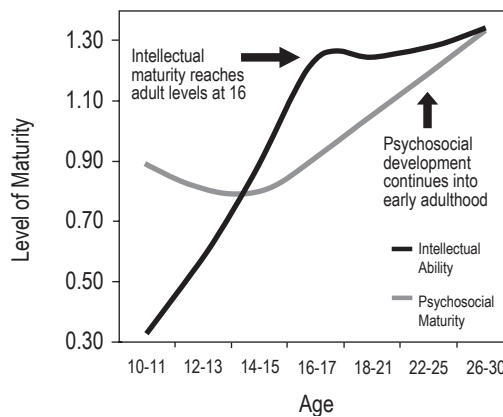
Not every teen caves in to peer pressure. However, the justice system may need to take into account that some teens may face more pressure from peers than others. For example, if a juvenile offender lives in a tough neighborhood, losing face with one's peers can be dangerous, inviting future attacks and persecution.¹⁸

Recent brain research confirms many of these findings. For example, the parts of the brain that govern thinking ahead, planning, and self control are still developing well beyond age 18. Also, several studies show that puberty may “amp up” thrill seeking and the valuing of rewards over risk. What’s more, the hormonal changes of puberty may make people more sensitive to peers and vulnerable to their influence.¹⁹

Adolescent psychosocial maturity continues to develop into early adulthood.

In sum, although by age 16, adolescents reach adult levels of intellectual maturity, psychosocial maturity continues to develop into early adulthood (see Figure 1). Adolescents do not “put facts together and draw conclusions the way adults do.”²⁰ These findings point to the need to consider whether adolescents’ lack of maturity, relative to adults, warrants them being treated differently when they face criminal prosecution. Policymakers need to ask whether the same factors that make youth ineligible to vote or serve on a jury might also be considerations when juveniles enter the justice system.²¹

Figure 1. The Immaturity Gap



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Should Adolescents be Held as Accountable as Adults When They Commit Comparable Crimes?

Sometimes culpability (i.e., blameworthiness) is confused with accountability. It is possible to view two people as similarly accountable for a crime without seeing them as having equal blameworthiness. The fact that adolescents are less mature than adults does not mean that they are not responsible for their actions and choices. Adolescents can tell right from wrong, and they should be punished when they knowingly violate the law.

At the same time, however, our justice system is grounded in the principle of penal proportionality—that the degree of punishment one receives should have something to do with the person’s state of mind at the time of the crime. For example, a young inexperienced driver who skids off the road and ends up killing someone will be held accountable for wrongful death. Yet this young person may be judged less than fully blameworthy because the death was accidental.²² Similarly, an adolescent who commits a crime because of developmentally-driven immaturity or heightened susceptibility to peer influence might be viewed as responsible, but just not *as* responsible, as an adult who committed a similar act. It is possible to create a justice system that holds youths responsible for their actions, while still taking into account the ways in which their immaturity may mitigate (but not excuse) their culpability.

Are Adolescents Able to Participate as Competent Defendants in Criminal Proceedings?

Questions of criminal culpability, which apply to the offender’s psychological state at the time of the alleged offense, are different from questions of competence to stand trial, which refer to the offender’s mental status at the time of the court proceeding. The U.S. justice system has long held that those accused of crimes should be mentally competent to understand and participate in their trial. Among the elements of competence required under law are the possession of a factual and rational understanding of the proceedings and the ability to assist one’s counsel. Trying juveniles in adult court has led to questions about whether younger adolescents have the competence and maturity to participate in criminal proceedings.

To determine whether teens differ from young adults, the MacArthur Network interviewed 1,400 individuals, aged 11-24, in detention facilities (if they were juveniles) or jails (if they were adults) and the community, from four different parts of the country. Researchers examined several aspects of the participants’ abilities relevant to their competence to stand trial. None of the findings varied by gender, race/ethnicity, socioeconomic status, or locale. Participants’ performance was compared to that of adults who had been found incompetent to stand trial.

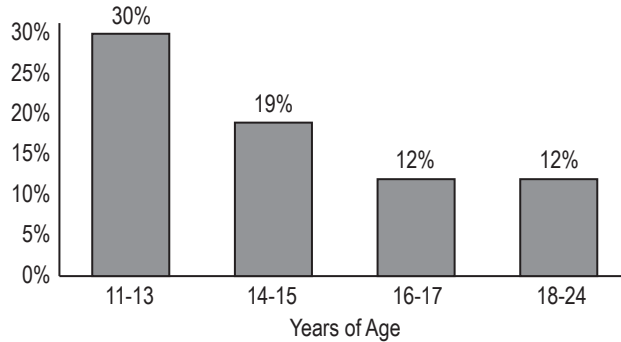
Understanding and reasoning about the trial process. Nearly one-third of 11-13 year-olds and one-fifth of 14-15 year-olds had deficits that might be serious enough to interfere with their ability to be a competent defendant in criminal proceedings (see Figure 2). Understanding and reasoning about the trial process did not differ between adolescents aged 16-17 and young adults aged 18-24.²³ Among the 11-13 year-olds with very low IQ scores, one half scored as poorly as adults who had been judged incompetent to stand trial.

Because adolescents are less mature than adults does not mean they are not responsible for their actions.

The youngest adolescents had deficits serious enough to interfere with their ability to be a competent defendant.

Figure 2. Understanding of the Trial Process

Young Teens are Nearly Three Times More Likely Than Older Teens or Young Adults to be Significantly Impaired in Reasoning or Understanding of the Legal Process



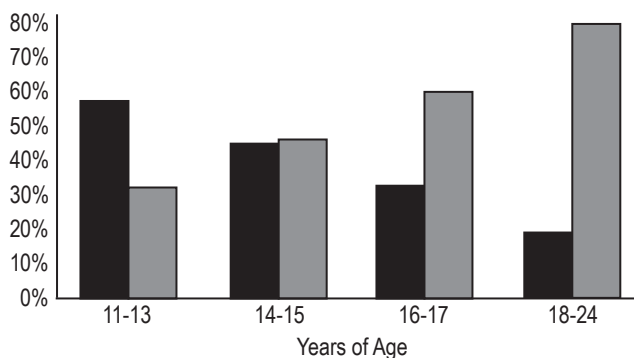
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Emotional maturity. Researchers examined the most relevant aspects of maturity in legal settings: ability to take into account long-term consequences, perceive and comprehend risks, resist peer influence, and comply with authority figures. These aspects of maturity were assessed by asking study participants to recommend the best and worst choices in a police interrogation (when one is guilty of a crime), attorney consultation, and plea agreement (that included a guilty plea and testifying against other defendants).

Overall, the youngest teens, aged 11-13, made less mature decisions than older youth. Younger teens complied with authority more often as indicated by their willingness to confess to police and accept a plea deal. Over half of 11-13 year-olds recommended confessing compared to only one-fifth of 18-24 year-olds (see Figure 3). Younger teens were also less likely to comprehend risks and the long-term consequences of their decisions.

Figure 3. Emotional Maturity

In Hypothetical Situations, Youngest Teens Were More Likely to Advise Confessing or Talking to Police

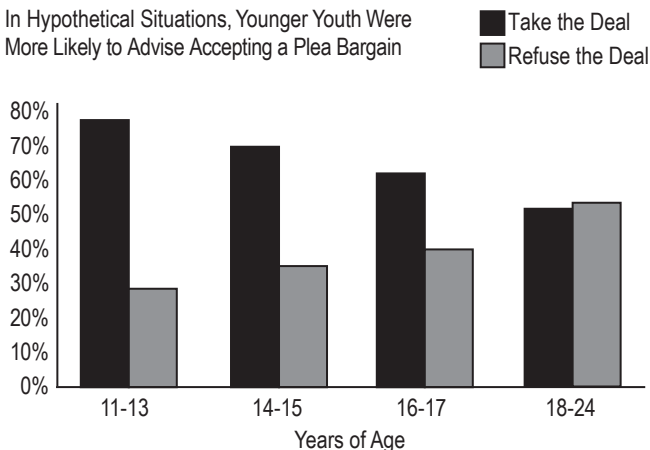


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The proportion of those who advised accepting a plea agreement declined from about three-fourths of 11-13 year-olds to only one-half of young adults (see Figure 4). Once again, few statistical differences emerged among those older than 15.²⁴

Figure 4. Accepting a Plea Agreement

In Hypothetical Situations, Younger Youth Were More Likely to Advise Accepting a Plea Bargain



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Clearly, the youngest adolescents are less able to understand the trial process and appear to be immature in other ways that may affect their ability to participate in criminal proceedings. For example, they were more likely to confess to authorities and accept a plea deal, especially if they believed that it might lead to an immediate reward such as going home.²⁵

If youth are not competent to stand trial, how can they be held accountable for the crimes they commit? A criminal justice system that ignores juveniles' lesser competence would be unfair, but one that excludes them from prosecution would be unsafe. One option being put in place in states like Arkansas and being considered in Louisiana and Ohio is developing a dual system of competence—one for adult courts and a more relaxed one for juvenile courts, and referring juveniles found not competent in criminal court to juvenile court.²⁶ These lower standards of competence in juvenile court would be accompanied by more rehabilitation and less punitive sentencing.²⁷

Can Juvenile Offenders be Reformed? Is the Juvenile or Adult System More Effective in Deterring Repeat Crimes?

Adolescence is a time of rapid change; even youth at the deep end of the juvenile justice system can often turn their lives around. In a Network study of 1,355 serious offenders, aged 14 to 17 at the time of their enrollment into the study, a majority were not involved in antisocial activities over the next three years. A surprising number—about 15%—go from committing many crimes to almost none, and fewer than 10% of the sample were chronic, frequent offenders. This study is consistent with past ones showing that only a small proportion of juvenile offenders are likely to develop into career criminals.

Studies show that only 10% of serious juvenile offenders become chronic, frequent offenders.

Researchers in the MacArthur Network conducted studies to examine what contributes to juvenile reform in the justice system itself, as well as in the individual, family, and community.

Corrections system. Researchers capitalized on a natural experiment in the New York City metropolitan area where the laws of two states collide. On the New York side of the Hudson River, juveniles as young as age 13 are charged in adult court. On the New Jersey side, nearly every juvenile under the age of 18 is prosecuted in juvenile court. Researchers followed 2,000 adolescents who committed aggravated assault, armed robbery, or burglary during 1992 and 1993; in 1999, they determined how many had been re-arrested.

Because these young offenders lived in the same area and under similar circumstances (e.g., economic opportunity, access to weapons, and gang influences), we can have greater confidence that the findings are due to differences in the justice systems. In New Jersey's juvenile facilities, for example, youth were more likely to receive rehabilitative services than they were in New York's adult facilities.

Compared to adolescents processed in New Jersey juvenile court, those processed in New York adult courts were:

- 85% more likely to be re-arrested for violent crimes,
- 44% more likely to be re-arrested for felony property crimes,
- 26% more likely to end up back in prison, and
- 35% less likely to be re-arrested for drug offenses.

Except for drug offenses, adult punishment and longer harsher sentences do not deter juveniles from crime. In fact, crimes among juveniles prosecuted in adult courts were more common and more serious; these juveniles were re-arrested more quickly, more often, and were more likely to be sent back to prison.²⁸

Individual, family, and community influences on juvenile crime. Researchers have identified several factors that help reform serious juvenile offenders:²⁹

- Psychological maturation
- Assuming adult roles (e.g., work and family)
- A new self-concept and a new resolve to turn one's life around
- A turning point in life
- Direct interventions such as alcohol or mental health treatment
- Improvements in one's neighborhood or social setting
- A supportive family

How well parents monitor their kids matters, even in high-crime neighborhoods.

For young offenders, parents are able to help keep their children away from trouble if they monitor where their teens are, know their friends, and establish firm ground rules and expectations. How well parents monitor their kids matters, even in high-crime neighborhoods.³⁰

Juvenile offenders are not all cut out of the same cloth. A lot of work remains to find out exactly what interventions work for which kids and to put those interventions in place.

How are State Legislatures Responding to this New Evidence on Adolescent Development?

Given this new evidence, many states are reconsidering their juvenile justice systems and passing new laws. The MacArthur Network reviewed what states are doing:

- Arkansas requires competence evaluations of young adolescents charged with very serious crimes before they can be transferred into adult court.
- Ohio has begun drafting juvenile competence legislation.
- The Louisiana legislature has created a task force to set guidelines for competence evaluations of juveniles.
- Louisiana, Maryland, and Virginia now require that youths have counsel at various stages of juvenile court proceedings.
- Illinois has abolished the statute under which youths charged with selling drugs in school were automatically tried as adults, and is considering other bills that would keep more youths in juvenile, rather than criminal court.³¹
- Connecticut has recently passed legislation that will raise the minimum age of adult court jurisdiction from 16 to 18.

Most states, including Wisconsin, have a separate juvenile and adult system. In Wisconsin and 13 other states, 17-year-olds are automatically prosecuted in adult court.³² The question policymakers face is whether there should be an automatic waiver of juveniles to adult court at a certain age or whether only extreme cases should be prosecuted in adult court. The evidence and some of the leading arguments for each position are summarized below.

Automatic Waiver of 17-Year-Olds into Adult Court

- Because there is no fool-proof way to identify juvenile offenders who are likely to continue a life of serious crimes, the surest way to protect the public is to lock up anyone who commits an offense, regardless of their age and the costs of doing so.
- The evidence on adolescent's inability to participate in criminal proceedings is strongest for those aged 15 and under; 17-year-olds are not different enough from young adults to warrant granting them leniency.
- Locking up even young offenders sends a strong message to would-be offenders about the costs of committing crime.
- The juvenile courts were designed in a simpler era when youths were getting into fist fights in school; adult crimes like drugs, guns, and other serious crime deserve adult punishment.
- In the absence of strong evidence that juvenile justice interventions are effective, the only acceptable option is to incapacitate serious juvenile offenders.

In Wisconsin and 13 other states, 17-year-olds are automatically prosecuted in adult court.

Prosecution of those under 18 in Juvenile Court, with only Extreme Cases Waived into Adult Court

- Based on recent evidence, juveniles are emotionally immature in several ways that may undermine their decisionmaking capacity; thus, the default should be processing adolescents under age 18 in juvenile court where they will be held responsible for their actions, but treated as less blameworthy, punished less severely, and provided more rehabilitation.
- Studies show that youth, particularly those under age 15, are not able to participate competently in criminal proceedings due to developmental immaturity; juvenile and adult courts should consider claims of incompetence based on immaturity, just as they consider claims of mental illness or disability.
- Some youth should be processed in adult court, particularly older and more violent re-offenders who have exhausted the resources of the juvenile justice system and may pose a threat to the community. Because these offenders are few in number, however, this should be the exception not the rule.
- Processing juveniles in adult court is not a deterrent. In a recent study, youth processed in adult court are more likely to re-offend. The notion that juveniles make rational decisions about whether to commit crimes based on their knowledge of the law flies in the face of what we know about adolescent impulsiveness.
- Most youth should be processed in juvenile courts because treatment and rehabilitation is more available; in polls, the public is willing to pay for corrections programs that cut crime, and would rather spend tax dollars on rehabilitation and prevention programs than longer periods of incarceration. Community-based treatment costs about one-fifth as much as incarceration.
- Interventions that severely disrupt the educational and occupational development of juveniles during their transition into adult roles are likely to have long-term costs to society.

In a recent study, youth processed in adult court were more likely to re-offend.

Conclusion

Political debate on the juvenile justice system is informed by many perspectives including the economic, moral, political, and pragmatic. Surely, one other important perspective should be that of science. Recent studies may be particularly valuable to policymakers because they have been conducted with juvenile offenders in real-world settings. The science reviewed in this article offers policy-relevant evidence about adolescents' competence to stand trial, their blameworthiness, their potential for change, and the conditions that can help juveniles become productive, law-abiding citizens. States are beginning to acknowledge this new evidence in their laws in ways that balance two conflicting priorities—the need for public safety and the welfare of young offenders who often can turn their lives around.

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of more than 250 scholarly articles and 8 books on growth and development during the teenage years. Since 1976, he has received over 60 grants to support his research and has given over 260 presentations including briefings for Congress, testifying at several state legislatures, and speaking to the American Bar Association, American Criminological Society, National Conference of Juvenile and Family Court Judges, National Conference of State Legislatures, National Institute of Justice, and U.S. Department of Justice. He has been the recipient of numerous honors, including the John P. Hill Award for Outstanding Contributions to the Study of Adolescence given by the Society for Research on Adolescence, and the Urie Bronfenbrenner Award for Lifetime Contribution to Developmental Psychology in the Service of Science and Society given by the American Psychological Association.

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