Juvenile Offenders Should Not Be Treated as Adults

Patrick T. McCormick

Imagine a 12-year-old boy who has committed a brutal, senseless homicide. Now imagine a 47-year-old legislator who claims this child should be treated as if he were a mature adult. Which of these is behaving like a grown-up?

[In 2001] prosecutors in Florida put two 14-year-olds on trial as adults for homicides committed when the youngsters were 12 and 13 years of age. A Fort Lauderdale jury convicted Lionel Tate of first-degree murder in the 1999 death of 6-year-old Tiffany Eunick, and the judge imposed a mandatory sentence of life without parole. Four months later a West Palm Beach jury found Nathaniel Brazill guilty of second-degree murder and the 14-year-old was sentenced to 28 years in prison without parole for killing his English teacher, Barry Grunow. Meanwhile, a superior court in California has ruled that 15-year-old Charles Andrew Williams should be tried as an adult for the murder of two students in a school shooting [in March 2001].

In these states we would not let a 12- or 13-year-old buy a carton of cigarettes, a six-pack of beer or a ticket to the movie “American Pie 2.” They are not mature, competent or responsible enough to drive a car, get a job, move out of the house, marry, serve in the military or vote. They need a note from their parents to go on a class trip to the zoo. But a 12-year-old do something truly monstrous, and suddenly state and federal lawmakers want to behave as if this child were competent to stand trial as an adult in a capital murder case--as if it made sense to punish this pubescent adolescent in the same way we would a hardened felon.

A Growing Trend

And Masters Tate, Brazill and Williams are just the tip of the iceberg. Over the past decade legislators in 47 states and the District of Columbia have made it easier to put on trial and punish juveniles as adults. Between 1985 and 1997 the number of minors admitted to state prisons more than doubled, climbing from 3,400 to 7,400. In 1998 U.S. jails housed nearly 7,000 youngsters awaiting trial, and prisons and adult correctional facilities held more than 11,000 juveniles. That same year state and federal prosecutors charged 200,000 young people with criminal offenses.

Children in U.S. prisons or jails are not a new phenomenon. Before 19th-century reformers established America’s first juvenile court in Chicago in 1899, children who had reached the age of reason (7) were often tried and sentenced along with adults, serving time in the same prisons and occasionally facing execution. In the period from 1870 to 1890, one out of every 25 convicts in San Quentin and Folsom prisons was between 14 and 17.

But for most of the [twentieth] century, juvenile courts and correction facilities have treated youngsters between 7 and 17 not as criminals but as delinquents, and (in theory at least) focused on rehabilitating the youthful offender rather than punishing the offense. Unlike criminal courts, the proceedings here were not adversarial, but informal and confidential. And juveniles were not convicted or sent to prison, but adjudicated delinquent and put on probation or sent to training schools or reformatories.

Two underlying beliefs have guided the practice of these juvenile courts: first, that children and adolescents are not responsible for their actions in the same way as adults; and second, that they are more open to reform and rehabilitation than their elders. Because of the immaturity and malleability of juveniles, their guilt was weighed differently, and rehabilitation took priority over punishment.

But not all juveniles were kept out of criminal court. Judges in juvenile courts could transfer youths who were nearly 18, habitual offenders or guilty of particularly serious crimes, and down through the years about 1 percent of youthful offenders were sent to adult court by means of these judicial waivers.

But in the early 1990’s, legislators in nearly every state responded to concerns about a spike in juvenile violent crime rates and began tinkering with the juvenile justice system, making it easier to put more and younger adolescents on trial as adults and to send them to adult jails and prisons--sometimes for life, occasionally for death. And they introduced blended sentences, allowing juvenile offenders to finish the last years or decades of their term in adult prisons. And they demanded mandatory minimum sentences for a variety of juvenile offenses.

As it turns out, the surge in juvenile violent crime rates that began in the late 1980’s was already ending as legislators made these changes, and could have been better dealt with by limiting adolescents’ access to handguns. These, at least, were the findings of a recent report by the Sentencing Project, a Washington-based research group, titled Prosecuting Juveniles in Adult Court. Still, shaken by stories of “superpredators” and school shootings, lawmakers decided to get tough on juvenile crime and shift the focus from rehabilitating offenders to punishing offenses. As a result, the vast majority of states now allow 14-year-olds to be tried as adults. Fifteen states explicitly permit this practice for children as young as 13, 12 or 10. And more than half the states have one offense for which juveniles of any age can be charged as adults. At the same time, 38 states house juveniles in the general population in adult prisons or jails.

Life Imprisonment and Capital Punishment

Still, our toughness on juveniles is not limited to this new willingness to try and punish more and younger children as adults. America’s judicial system can also boast an uncommon and unpopular readiness to sentence juveniles to life, or death. The Convention on the Rights of the Child, an international treaty ratified by every U.N. member except the United States and Somalia, forbids punishing any crime committed by a minor with life
imprisonment without parole. But in 1998 California had 14 prisoners serving this sentence for crimes committed when they were 16 or 17. And, of course, Lionel Tate received this punishment for a crime he committed as a 12-year-old.

Meanwhile, as we saw in all the fury last August [2001] over the Texas inmate Napoleon Beazley, America remains one of a handful of countries that execute juvenile offenders. At 17 Beazley murdered John Luttig, and at 25 he was scheduled to become the 19th person executed in the United States since 1976 for a crime committed as a minor. Sentencing juvenile offenders to death is in clear violation of a number of U.N. conventions and treaties and has been condemned by the American Bar Association, most major religious denominations and just about every human rights group with a Web site. Even China gave up the practice in 1997. Still, the U.S. Supreme Court has upheld the constitutionality of executing people over 16, and 23 states currently allow capital punishment for juveniles. So approximately 80 U.S. prisoners sit on death row waiting to be executed for crimes they committed at 16 or 17, and in the last decade over half of the world’s executions of juvenile offenders have been in the United States. More than half of those were carried out in Texas.

From all the media attention given to cases like those of Beazley, Tate, Brazill and Williams, it would be easy to conclude that the vast majority of juveniles being tried as adults are violent offenders, probably murderers. But, in Gershwin’s phrase, it ain’t necessarily so. In both 1995 and 1996 fewer than half the cases nationwide waived to criminal court involved violence against people. And a study released in October 2000, Youth Crime/Adult Time, found that current laws cast too wide a net, sending many juveniles into adult courts and jails for nonviolent offenses. According to the study, nearly 40 percent of the juveniles tried as adults were charged with nonviolent crimes, and many were not convicted or were sent back to juvenile court, which suggests that their cases were neither strong nor serious. “The findings suggest that the adult criminal court is taking on numerous cases that should be prosecuted in the juvenile justice system.”

The Differences Between Adolescents and Adults

Ironically enough, legislators and prosecutors are charging and punishing more and more juveniles as adults at the very moment researchers are confirming just how different adolescents are from grown-ups. According to a report by a National Research Council panel, titled Juvenile Crime, Juvenile Justice, children and adolescents think, feel and judge differently than adults—often overestimating their grasp of a situation and underestimating the negative consequences of their actions.

Recent brain studies indicate that children and adolescents process emotionally charged information in that part of the brain responsible for instinct and gut reaction, while adults do this work in the more “rational” frontal section. Other research shows that while strong emotions can cloud or distort judgments for both adults and adolescents, teens experience wider and more frequent mood swings. All of this suggests that juveniles lack the cognitive and emotional maturity of adults, are less able to think rationally or clearly when faced with emotionally charged decisions and should be held less culpable for their choices.

At the same time, studies of juvenile defendants raise questions about their capacity to grasp the adversarial process of criminal court and their competence to stand trial as adults. Youngsters under 15 often misunderstand their legal rights and are more likely to confess in detail to an authority figure. Children find it more difficult to remember or recount events in a consistent or coherent fashion. They often forget names, addresses and the correct sequence of events, making it more difficult for them to assist in their defense and easier for police or prosecutors to discredit their testimony. On the witness stand children often appear unemotional and callous, even though they are deeply frightened or upset. And when faced with plea offers from the prosecution, juveniles have a poor grasp of the strength of the case against them or the long-term consequences of their decision. When Nathaniel Brazill realized he was facing a prison sentence of more than a quarter-century, his response was, "Not too bad"—hardly an indication that he understood what was going on.

And if it is a mistake to put juveniles on trial as adults, it may be a greater one to incarcerate them with grown-ups. Adolescents in adult jails and prisons are more vulnerable to a wide range of dangers. Compared with youngsters in juvenile detention centers, youths housed in adult jails are nearly eight times as likely to commit suicide. They are five times as likely to be sexually assaulted, and twice as likely to be beaten by staff members. And they are 50 percent more likely to be attacked with a weapon. A study in the Miami Herald suggests that youngsters in Florida prisons are nearly 21 times as likely to report being assaulted or injured as adolescents in the state’s juvenile justice system.

Nor does treating juveniles as adults make our communities or society any safer. About 80 percent of juveniles admitted to prison are released before their 21st birthday, and being jailed with adults does not seem to discourage them from returning to a life of crime. If anything, the opposite may be true. Studies in Florida, Pennsylvania, New York and New Jersey and a good deal of national research indicate that recidivism rates are higher among juveniles who are transferred to adult court than among those who remain in the juvenile system. Adolescents who are tried and punished as adults are more likely to offend again, to do so sooner and more often, and to commit more serious crimes than those kept in juvenile court. States like Florida that prosecute large numbers of juveniles as adults have some of the highest juvenile violent-crime rates. And even deterrence programs like Scared Straight, which sought to deter juvenile offenders by exposing them briefly to prison life and adult convicts, have been an unmitigated disaster and led to increased criminal behavior on the part of adolescents.

Indeed, the evidence suggests that several community-based programs that do not involve imprisonment are both less costly and more effective than trying and punishing adolescents as adults. As the authors of Juvenile Crime, Juvenile Justice note, "Research has shown that treating most juvenile offenders within the community does not compromise public safety and may even improve it through reduced recidivism."

More than a century after the first juvenile court was founded in Chicago, we have even more reason to know that adolescents are not small adults, and should not be treated or punished as if they were. Children may gain an elementary grasp of morality at 7, but this is not the only age or stage of reason. Developmental psychology has
confirmed what Shakespeare told us long ago, that we go through several stages in our cognitive, affective and moral development, and that between the adult and the infant is the "whining school-boy" or adolescent. If we are to play the part of mature adults (Shakespeare's judge), we will need to know the differences between these stages and act accordingly.

More Juveniles Should Be Tried as Adults

By Hanna Chiou

Thursday, May 21, 1998. In Springfield, Oregon, 15-year-old Kip Kinkel opened fire in the cafeteria of Thurston High School. Two were killed and 25 others were wounded.

Tuesday, March 24, 1998. In Jonesboro, Arkansas, 11-year-old Andrew Golden and 13-year-old Mitchell Johnson pulled the fire alarm and shot at the students filing out of the school. Five were killed and ten were wounded.

Monday, Dec. 1, 1997. In Paducah, Kentucky, 14-year-old Michael Carneal pulled out a pistol and began firing on a student prayer group. Three were killed and five others were wounded.

These incidents are only a tiny sample of the school shootings that have been committed by juveniles in the United States. More shootings have happened in Onalaska, Washington; Johnston, Rhode Island; Endinboro, Pennsylvania; St. Charles, Missouri ... the list goes on and on!

The criminals of today just seem to be getting younger and younger. According to the Iowa State Daily [a daily newspaper issued by Iowa State University], "Murder cases among 14- to 17-year-olds have increased 160 percent between 1984 and 1999." Unfortunately, these 14- to 17-year-olds are still classified as juveniles, and thus, are tried in the juvenile court, a legislative system that prosecutes these criminals more leniently due to their age "immaturity."

Looking at these statistics, I say that it's time to take juvenile crime more seriously and start treating these criminals in the more just adult court.

Mental Maturity or Immaturity Cannot Be Gauged by Age

Lynbrook [High School] junior Stephanie Tsai disagrees with this saying, "At the age of 18, teens are allowed to vote because people believe that by that age they can think rationally and sensibly. Until kids are 18, they cannot be held responsible for their actions." Let's examine this age 18 issue more closely....

Granted, our society does give juveniles the right to vote at age 18. However, many states give them the right to drive at age 16 and the right to drink at age 21. The fact is that declaring an 18-year-old an adult is an arbitrary standard to determine maturity as far as prosecuting crime goes.

The juvenile court system was originally implemented to protect juveniles from the "harsh" adult court, for juvenile criminals were thought to be more mentally "immature" than adults. This may very well be if we were speaking of a 6-year-old. However, 17-year-olds classify as juveniles as well. Are we to say that 17-year-olds are significantly more "immature" and should "not be held responsible for their actions" than that of an adult 18-year-old?

Furthermore, if our justice system uses mental incompetency as the reason juveniles have their own separate and more lenient court, why aren't 40-year-olds with the mind of a 10-year-old prosecuted in the juvenile justice system? Are they not mentally "immature" as well?

Adult Courts Ensure Basic Freedoms for Juveniles

An incorrect assumption about this controversial matter is if the juvenile were to be prosecuted in the adult court, he would be condemned with an adult sentence. Wrong. Referring back to the 40-year-old criminal with a 10-year-old mind. The reason he would be prosecuted in the adult system despite his mental immaturity is because these courts do allow for mitigating circumstances such as mental incompetency. The same goes for juveniles. If a 15-year-old were truly mentally immature, the adult justice system would take that fact into account of its decision and ruling.

Furthermore, while others may argue that the juvenile justice system has the juvenile's best interests in mind, basic freedoms such as due process are denied in the juvenile courts. While those prosecuted in adult courts are entitled to a jury, juvenile sentences usually lay in the hands of an individual judge.

Juveniles Inflict as Much Damage as Adult Offenders

The simple fact is that fully competent and mature juveniles are fully capable of committing the same crime as a competent adult. The results of the crime are the same. In burglary, an innocent person was robbed of his possessions. In murder, an innocent person was robbed of his life. As Katrina Ng, Santa Clara University freshman answered, "If they commit the adult crimes, they should pay the adult consequences. It's not as if they don't know the difference between right and wrong."

And even in the extreme cases where right and wrong were indistinguishable to the immature juvenile, the adult justice system would be better equipped to prosecute him, allowing for mitigating circumstances and giving due process. This way, justice is best achieved--on both sides.